FORM POS EX

Post-effective amendments filed solely to add exhibits to a registration statement

Filing Date: **2017-09-14**
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FILER

ELLSWORTH GROWTH & INCOME FUND LTD
CIK:**793040**| IRS No.: **133345139** | State of Incorp.:**DE** | Fiscal Year End: **0930**
Type: **POS EX** | Act: **33** | File No.: **333-219322** | Film No.: **171086339**

Mailing Address
65 MADISON AVE
SUITE 550
MORRISTOWN NJ 07960

Business Address
65 MADISON AVENUE
SUITE 550
MORRISTOWN NJ 07960
(973) 631-1177

As filed with the Securities and Exchange Commission on September 14, 2017
Securities Act File No. 333-219322
Investment Company Act File No. 811-04656

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

Form N-2

(Check Appropriate Box or Boxes)

T REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933
£ Pre-Effective Amendment No.
T Post-Effective Amendment No. 1

and/or

T REGISTRATION STATEMENT UNDER THE INVESTMENT COMPANY ACT OF 1940
T Amendment No. 13

ELLSWORTH GROWTH AND INCOME FUND LTD.
(Exact name of Registrant as specified in Charter)

One Corporate Center, Rye, New York 10580-1422
(Address of Principal Executive Offices)
Registrant's Telephone Number, including Area Code: (800) 422-3554

James A. Dinsmore
Ellsworth Growth and Income Fund Ltd.
One Corporate Center
Rye, New York 10580-1422
(914) 921-5100
(Name and Address of Agent for Service)

Copies to:

Richard Prins, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square
New York, New York 10036
(212) 735-3000

Thomas A. DeCapo
Skadden, Arps, Slate, Meagher & Flom LLP
500 Boylston Street
Boston, Massachusetts 02116
(617) 573-4800

Andrea R. Mango, Esq.
Gabelli Funds, LLC
One Corporate Center
Rye, New York 10580-1422
(914) 921-5100

Approximate date of proposed public offering: From time to time after the effective date of this Registration Statement.

If any securities being registered on this form will be offered on a delayed or continuous basis in reliance on Rule 415 under the Securities Act of 1933, as amended, other than securities offered in connection with a dividend reinvestment plan, check the following box. ☒

EXPLANATORY NOTE

This Post-Effective Amendment No. 1 to the Registration Statement on Form N-2 (File Nos. 333-219322 and 811-04656) of Ellsworth Growth and Income Fund Ltd. (the "Registration Statement") is being filed pursuant to Rule 462(d) under the Securities Act of 1933, as amended (the "Securities Act"), solely for the purpose of filing exhibits to the Registration Statement. Accordingly, this Post-Effective Amendment No. 1 consists only of a facing page, this explanatory note and Part C of the Registration Statement on Form N-2 setting forth the exhibits to the Registration Statement. This Post-Effective Amendment No. 1 does not modify any other part of the Registration Statement. Pursuant to Rule 462(d) under the Securities Act, this Post-Effective Amendment No. 1 shall become effective immediately upon filing with the Securities and Exchange Commission. The contents of the Registration Statement are hereby incorporated by reference.

PART C
OTHER INFORMATION

Item 25. Financial Statements and Exhibits

(1) Financial Statements

Part A

None

Part B

Statement of Assets and Liabilities as of September 30, 2016
Statement of Operations for the Year Ended September 30, 2016
Statement of Changes in Net Assets Attributable to Common Shareholders for the Year Ended September 30, 2016
Report of Independent Registered Public Accounting Firm
Statement of Assets and Liabilities as of March 31, 2017
Statement of Operations for the Six Months Ended March 31, 2017
Statement in Net Assets Attributable to Common Shareholders for the Six Months Ended March 31, 2017

(2) Exhibits

(a) (i) Amended and Restated Agreement and Declaration of Trust of Registrant(1)

(ii) Amendment No. 1 to Amended and Restated Agreement and Declaration of Trust of Registrant(2)

(iii) Amendment No. 2 to Amended and Restated Agreement and Declaration of Trust of Registrant(2)

(iv) Statement of Preferences for 5.25% Series A Cumulative Preferred Shares**

(b) Amended and Restated By-Laws of Registrant(3)

(c) Not applicable

(d) (i) Form of Subscription Certificate for Common Shares*

(ii) Form of Subscription Certificate for [ ]% Series Cumulative Preferred Shares*

(iii) Form of Subscription Certificate Shares for Common Shares and [ ]% Series Cumulative Preferred Shares*

(iv) Form of Indenture(2)

(v) Form T-1 Statement of Eligibility of Trustee with respect to the Form of Indenture *

(e) Automatic Dividend Reinvestment and Cash Payment Plan of Registrant(4)

(f) Not applicable

(g) Investment Advisory Agreement between Registrant and Gabelli Funds, LLC(3)

(h) (i) Form of Underwriting Agreement**

(ii) Form of Master Agreement Among Underwriters**

(iii) Form of Master Selected Dealers Agreement**

(iv) Form of Dealer Manager Agreement*

(i) Not applicable

(j) (i) Amended and Restated Master Custodian Agreement, dated July 2, 2001, between the Registrant, by amended appendix, and State Street Bank & Trust Company(5)

(ii) Revised Schedule A to Master Custodian Agreement(2)

(k) (i) Registrar, Transfer Agency and Service Agreement, dated January 3, 2002, between Registrant and American Stock Transfer & Trust Company, LLC(6)

(ii) Addendum to Registrar, Transfer Agency and Service Agreement**

(iii) Form of Rights Agent Agreement*

(iv) Form of Information Agent Agreement*

(l) (i) Opinion and Consent of Skadden, Arps, Slate, Meagher & Flom LLP with respect to legality(7)

(ii) Opinion and Consent of Skadden, Arps, Slate, Meagher & Flom LLP with respect to legality of the 5.25% Series A Cumulative Preferred Shares**

(m) Not applicable

(n) Consent of Independent Registered Public Accounting Firm(7)

(o) Not applicable

(p) Not applicable

(q) Not applicable

(r) (i) Code of Ethics of the Fund and the Investment Adviser(2)

(s) Powers of Attorney (2)

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(1) Incorporated by reference to the Registrant's Form N-SAR, filed with the Commission on May 30, 2006.
(2) Incorporated by reference to the Registrant's Registration Statement on Form N-2, File Nos. 333-219322 and 811-04656, as filed with the Commission on July 17, 2017.
(3) Incorporated by reference to the Registrant's Form N-SAR, filed with the Commission on May 24, 2016.

(4) Included in Prospectus
(5) Incorporated by reference to Exhibit (g) of The Gabelli Utilities Fund's Registration Statement on Form N-1A, File Nos. 333-81209 and 811-09397, as filed with the Commission on May 1, 2002.(6)Incorporated by reference to The Gabelli Utilities Fund's Registration Statement on Form N-1A, File Nos. 333-81209 and 811-09397, as filed with the Commission on May 1, 2002.
(6) Incorporated by reference to the Registrant's Registration Statement on Form N-2, File No. 333-108694 , as filed with the Commission on September 11, 2003.
(7) Incorporated by reference to the Registrant's Registration Statement on Form N-2, File Nos. 333-219322 and 811-04656, as filed with the Commission on August 22, 2017.
* To be filed by Amendment.
** Filed herewith.

Item 26. Marketing Arrangements

The information contained under the heading "Plan of Distribution" on page 83 of the Prospectus is incorporated by reference, and any information concerning any underwriters will be contained in the accompanying Prospectus Supplement, if any.

Item 27. Other Expenses of Issuance and Distribution

The following table sets forth the estimated expenses to be incurred in connection with the offering described in this Registration Statement:

SEC registration fees	$	11,590
NYSE MKT listing fee	$	50,000
Rating Agency fees	$	50,000
Printing/engraving expenses	$	240,000
Auditing fees and expenses	$	28,000
Legal fees and expenses	$	580,000
FINRA fees	$	0
Miscellaneous	$	136,410
Total	$	1,096,000

Item 28. Persons Controlled by or Under Common Control with Registrant

None.

Item 29. Number of Holders of Securities as of July 31, 2017:

Class of Shares	Number of Record Holders
Common Shares	227

Item 30. Indemnification

The Registrant's Amended and Restated Agreement and Declaration of Trust provides as follows:

Section 1.2(g). Definitions.

"Covered Person" means a person who is or was a Trustee, officer, employee or agent of the Trust, or is or was serving at the request of the Trustees as a director, trustee, partner, officer, employee or agent of a corporation, trust, partnership, joint venture or other enterprise.

Section 2.8 Personal Liability of Shareholders. Neither the Trust nor the Trustees, nor any officer, employee, or agent of the Trust shall have any power to bind personally any Shareholder or to call upon any Shareholder for the payment of any sum of money or assessment whatsoever other than such as the Shareholder may at any time personally agree to pay by way of subscription for any Shares or otherwise. The Shareholders shall be entitled, to the fullest extent permitted by applicable law, to the same limitation of personal liability as is extended under the Delaware General Corporation Law to stockholders of private corporations for profit. Every note, bond, contract or other undertaking issued by or on behalf of the Trust or the Trustees relating to the Trust shall include a recitation limiting the obligation represented thereby to the Trust and the assets belonging thereto (but the omission of such a recitation shall not operate to bind any Shareholder or Trustee of the Trust or otherwise limit any benefits set forth in the Delaware Act that may be applicable to such Persons).

Section 8.2. Indemnification of Covered Persons.

Every Covered Person shall be indemnified by the Trust to the fullest extent permitted by the Delaware Act, the Bylaws and other applicable law.

Section 8.3. Indemnification of Shareholders.

In case any Shareholder or former Shareholder of the Trust shall be held to be personally liable solely by reason of his being or having been a Shareholder of the Trust or any Class and not because of his acts or omissions or for some other reason, the Shareholder or former Shareholder (or his heirs, executors, administrators or other legal representatives, or, in the case of a corporation or other entity, its corporate or general successor) shall be entitled, out of the assets of the Trust, to be held harmless from and indemnified against all loss and expense arising from such liability in accordance with the Bylaws and applicable law. The Trust shall upon request by the Shareholder, assume the defense of any such claim made against the Shareholder for any act or obligation of the Trust.

Article VII of the Registrant's Amended and Restated Bylaws provides:

Section 6.1. Mandatory Indemnification.

(a) The Fund shall indemnify the Trustees and officers of the Fund (each such person being an "indemnitee") against any liabilities and expenses, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and reasonable counsel fees reasonably incurred by such indemnitee in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, before any court or administrative or investigative body in which he may be or may have been involved as a party or otherwise (other than, except as authorized by the Trustees, as the plaintiff or complainant) or with which he may be or may have been threatened, while acting in any capacity set forth above in this Section 6.1 by reason of his having acted in any such capacity, except with respect to any matter as to which he shall not have acted in good faith in the reasonable belief that his action was in the best interest of the Fund or, in the case of any criminal proceeding, as to which he shall have had reasonable cause to believe that the conduct was unlawful, provided, however, that no indemnitee shall be indemnified hereunder against any liability to any person or any expense of such indemnitee arising by reason of (1) willful misfeasance, (2) bad faith, (3) gross negligence, or (4) reckless disregard of the duties involved in the conduct of his position (the conduct referred to in such clauses (1) through (4)

being sometimes referred to herein as "disabling conduct"). Notwithstanding the foregoing, with respect to any action, suit or other proceeding voluntarily prosecuted by any indemnitee as plaintiff, indemnification shall be mandatory only if the prosecution of such action, suit or other proceeding by such indemnitee was authorized by a majority of the Trustees.

(b) Notwithstanding the foregoing, no indemnification shall be made hereunder unless there has been a determination (i) by a final decision on the merits by a court or other body of competent jurisdiction before whom the issue of entitlement to indemnification hereunder was brought that such indemnitee is entitled to indemnification hereunder or, (ii) in the absence of such a decision, by (1) a majority vote of a quorum of those Independent Trustees who are not parties to the proceeding ("Disinterested Non-Party Trustees"), that the indemnitee is entitled to indemnification hereunder, or (2) if such quorum is not obtainable or even if obtainable, if such majority so directs, independent legal counsel in a written opinion conclude that the indemnitee should be entitled to indemnification hereunder. All determinations to make advance payments in connection with the expense of defending any proceeding shall be authorized and made in accordance with the immediately succeeding paragraph (c) below.

(c) The Fund shall make advance payments in connection with the expenses of defending any action with respect to which indemnification might be sought hereunder if the Fund receives a written affirmation by the indemnitee of the indemnitee's good faith belief that the standards of conduct necessary for indemnification have been met and a written undertaking to reimburse the Fund unless it is subsequently determined that he is entitled to such indemnification and if a majority of the Trustees determine that the applicable standards of conduct necessary for indemnification appear to have been met. In addition, at least one of the following conditions must be met: (i) the indemnitee shall provide adequate security for his undertaking, (ii) the Fund shall be insured against losses arising by reason of any lawful advances, or (iii) a majority of a quorum of the Disinterested Non-Party Trustees, or if a majority vote of such quorum so direct, independent legal counsel in a written opinion, shall conclude, based on a review of readily available facts (as opposed to a full trial-type inquiry), that there is substantial reason to believe that the indemnitee ultimately will be found entitled to indemnification.

(d) The rights accruing to any indemnitee under these provisions shall not exclude any other right to which he may be lawfully entitled.

(e) Notwithstanding the foregoing, subject to any limitations provided by the 1940 Act, the Declaration and these By-Laws, the Fund shall have the power and authority to indemnify persons providing services to the Fund to the full extent provided by law as if the Fund were a corporation organized under the Delaware General Corporation Law provided that such indemnification (or contractual provision therefor) has been approved by a majority of the Trustees.

Section 6.2 No Duty of Investigation; Notice in Fund Instruments, etc. No purchaser, lender, transfer agent or other person dealing with the Trustees or with any officer, employee or agent of the Fund shall be bound to make any inquiry concerning the validity of any transaction purporting to be made by the Trustees or by said officer, employee or agent or be liable for the application of money or property paid, loaned, or delivered to or on the order of the Trustees or of said officer, employee or agent. Every obligation, contract, undertaking, instrument, certificate, Share, other security of the Trust, and every other act or thing whatsoever executed in connection with the Fund shall be conclusively taken to have been executed or done by the executors thereof only in their capacity as Trustees under these By-Laws or in their capacity as officers, employees or agents of the Trust. The Trustees may maintain insurance for the protection of the Fund Property, its shareholders, Trustees, officers, employees and agents in such amount as the Trustees shall deem adequate to cover possible liability, and such other insurance as the Trustees in their sole judgment shall deem advisable or is required by the 1940 Act.

Section 6.3. Reliance on Experts, etc. Each Trustee and officer or employee of the Fund shall, in the performance of its duties, be fully and completely justified and protected with regard to any act or any failure to act resulting from reliance in good faith upon the books of account or other records of the Trust, upon an opinion of counsel, or upon reports made to the Fund by any of the Fund's officers or employees or by any advisor, administrator, manager, distributor, selected dealer, accountant, appraiser or other expert or consultant selected with reasonable care by the Trustees, officers or employees of the Fund, regardless of whether such counsel or other person may also be a Trustee.

Section 6.4 Amendment, Repeal or Modification. Any amendment, repeal, or modification of, or adoption of any provision inconsistent with, this Article VI (or any provision hereof) shall not adversely affect any right to indemnification or advancement of expenses granted to any person pursuant hereto with respect to any act or omission of such person occurring prior to the time of such amendment, repeal, modification, or adoption (regardless of whether the proceeding relating to such acts or omissions is commenced before or after the time of such amendment, repeal, modification, or adoption). Any amendment or modification of, or adoption of any provision inconsistent with, this Article VI (or any provision hereof), that has the effect of positively affecting any right to indemnification or advancement of expenses granted to any person pursuant hereto, shall not apply retroactively to any person who was not serving as a Trustee or officer of the Fund at the time of such amendment, modification or adoption. The provisions of this Article VI do not deprive any person who was a Covered Person at the time of the adoption of these By-Laws of any benefit provided under the Fund's Amended and Restated By-Laws, effective as of April 10, 2006, as amended and effective as of January 20, 2015, with respect to the time period prior to the adoption of these By-Laws.

Section 9 of the Registrant's Investment Advisory Agreement provides as follows:

9. Indemnity

(a) The Fund hereby agrees to indemnify the Adviser and each of the Adviser's Trustees, officers, employees, and agents (including any individual who serves at the Adviser's request as director, officer, partner, trustee or the like of another corporation) and controlling persons (each such person being an "indemnitee") against any liabilities and expenses, including amounts paid in satisfaction of judgments, in compromise or as fines and penalties, and counsel fees (all as provided in accordance with applicable corporate law) reasonably incurred by such indemnitee in connection with the defense or disposition of any action, suit or other proceeding, whether civil or criminal, before any court or administrative or investigative body in which he may be or may have been involved as a party or otherwise or with which he may be or may have been threatened, while acting in any capacity set forth above in this paragraph or thereafter by reason of his having acted in any such capacity, except with respect to any matter as to which he shall have been adjudicated not to have acted in good faith in the reasonable belief that his action was in the best interest of the Fund and furthermore, in the case of any criminal proceeding, so long as he had no reasonable cause to believe that the conduct was unlawful, provided, however, that (1) no indemnitee shall be indemnified hereunder against any liability to the Fund or its shareholders or any expense of such indemnitee arising by reason of (i) willful misfeasance, (ii) bad faith, (iii) gross negligence, (iv) reckless disregard of the duties involved in the conduct of his position (the conduct referred to in such clauses (i) through (v) being sometimes referred to herein as "disabling conduct"), (2) as to any matter disposed of by settlement or a compromise payment by such indemnitee, pursuant to a consent decree or otherwise, no indemnification either for said payment or for any other expenses shall be provided unless there has been a determination that such settlement or compromise is in the best interests of the Fund and that such indemnitee appears to have acted in good faith in the reasonable belief that his action was in the best interest of the Fund and did not involve disabling conduct by such indemnitee and (3) with respect to any action, suit or other proceeding voluntarily prosecuted by any indemnitee as

plaintiff, indemnification shall be mandatory only if the prosecution of such action, suit or other proceeding by such indemnitee was authorized by a majority of the full Board of the Fund. Notwithstanding the foregoing the Fund shall not be obligated to provide any such indemnification to the extent such provision would waive any right which the Fund cannot lawfully waive.

(b) The Fund shall make advance payments in connection with the expenses of defending any action with respect to which indemnification might be sought hereunder if the Fund receives a written affirmation of the indemnitee's good faith belief that the standard of conduct necessary for indemnification has been met and a written undertaking to reimburse the Fund unless it is subsequently determined that he is entitled to such indemnification and if the Trustees of the Fund determine that the facts then known to them would not preclude indemnification. In addition, at least one of the following conditions must be met: (A) the indemnitee shall provide a security for his undertaking, (B) the Fund shall be insured against losses arising by reason of any lawful advances, or (C) a majority of a quorum of Trustees of the Fund who are neither "interested persons" of the Fund (as defined in Section 2(a)(19) of the Act) nor parties to the proceeding ("Disinterested Non-Party Trustees") or an independent legal counsel in a written opinion, shall determine, based on a review of readily available facts (as opposed to a full trial-type inquiry), that there is reason to believe that the indemnitee ultimately will be found entitled to indemnification.

(c) All determinations with respect to indemnification hereunder shall be made (1) by a final decision on the merits by a court or other body before whom the proceeding was brought that such indemnitee is not liable by reason of disabling conduct or, (2) in the absence of such a decision, by (i) a majority vote of a quorum of the Disinterested Non-party Trustees of the Fund, or (ii) if such a quorum is not obtainable or even, if obtainable, if a majority vote of such quorum so directs, independent legal counsel in a written opinion.

(d) The rights accruing to any indemnitee under these provisions shall not exclude any other right to which he may be lawfully entitled.

(e) Notwithstanding the foregoing, subject to any limitations provided by the 1940 Act, the Declaration and these By-Laws, the Fund shall have the power and authority to indemnify persons providing services to the Fund to the full extent provided by law as if the Fund were a corporation organized under the Delaware General Corporation Law provided that such indemnification (or contractual provision therefor) has been approved by a majority of the Trustees.

Other

Reference is made to Sections 6 and 7 of the Underwriting Agreement, a form of which is filed as Exhibit (h)(i) to this Registration Statement.

Additionally, the Registrant and the other funds in the Gabelli/GAMCO Fund Complex jointly maintain, at their own expense, E&O/D&O insurance policies for the benefit of its directors/trustees, officers and certain affiliated persons. The Registrant pays a pro rata portion of the premium on such insurance policies.

Insofar as indemnification for liability arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the

registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

Item 31. Business and Other Connections of Investment Adviser

The Investment Adviser, a limited liability company organized under the laws of the State of New York, acts as investment adviser to the Registrant. The Registrant is fulfilling the requirement of this Item 31 to provide a list of the officers and directors of the Investment Adviser, together with information as to any other business, profession, vocation or employment of a substantial nature engaged in by the Investment Adviser or those officers and directors during the past two years, by incorporating by reference the information contained in the Form ADV of the Investment Adviser filed with the SEC pursuant to the 1940 Act (Commission File No. 801-37706).

Item 32. Location of Accounts and Records

The accounts and records of the Registrant are maintained in part at the office of the Investment Adviser at One Corporate Center, Rye, New York 10580-1422, in part at the offices of the Fund's custodian, State Street Bank and Trust Company, at 1776 Heritage Drive, North Quincy, Massachusetts 02171, and in part at the offices of the Fund's shareholder services and transfer agent, American Stock Transfer & Trust Company, LLC, at 6201 15th Avenue, Brooklyn, NY 11219.

Item 33. Management Services

Not applicable.

Item 34. Undertakings

1. Registrant undertakes to suspend the offering of shares until it amends its prospectus if (a) subsequent to the effective date of its Registration Statement, the net asset value declines more than ten percent from the later of its net asset value as of the effective date of the Registration Statement or the filing of a prospectus supplement pursuant to Rule 497, under the Securities Act, setting forth the terms of the offering or (b) the net asset value increases to an amount greater than its net proceeds as stated in the prospectus.

2. Not applicable.

3. If the securities being registered are to be offered to existing shareholders pursuant to warrants or rights, and any securities not taken by shareholders are to be reoffered to the public, the Registrant undertakes to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by underwriters during the subscription period, the amount of unsubscribed securities to be purchased by underwriters, and the terms of any subsequent reoffering thereof. If any public offering by the underwriters of the securities being registered is to be made on terms differing from those set forth on the cover page of the prospectus, the Registrant further undertakes to file a post-effective amendment to set forth the terms of such offering.

4. Registrant undertakes:

(a) to file, during a period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(1) to include any prospectus required by Section 10(a)(3) of the Securities Act;

(2) to reflect in the prospectus any facts or events after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement; and

(3) to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement.

(b) that for the purpose of determining any liability under the Securities Act, each post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

(c) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering; and

(d) that, for the purpose of determining liability under the Securities Act to any purchaser, if the Registrant is subject to Rule 430C: Each prospectus filed pursuant to Rule 497(b), (c), (d) or (e) under the Securities Act as part of a registration statement relating to an offering, other than prospectuses filed in reliance on Rule 430A under the Securities Act shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(e) that for the purpose of determining liability of the Registrant under the Securities Act to any purchaser in the initial distribution of securities:

The undersigned Registrant undertakes that in a primary offering of securities of the undersigned Registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned Registrant will be a seller to the purchaser and will be considered to offer or sell such securities to the purchaser:

(1) any preliminary prospectus or prospectus of the undersigned Registrant relating to the offering required to be filed pursuant to Rule 497 under the Securities Act.

(2) the portion of any advertisement pursuant to Rule 482 under the Securities Act relating to the offering containing material information about the undersigned Registrant or its securities provided by or on behalf of the undersigned Registrant; and

(3) any other communication that is an offer in the offering made by the undersigned Registrant to the purchaser.

5. Registrant undertakes:

(a) that, for the purpose of determining any liability under the Securities Act the information omitted from the form of prospectus filed as part of the Registration Statement in reliance upon Rule 430A and contained in the form of prospectus filed by the Registrant pursuant to Rule 497(h) will be deemed to be a part of the Registration Statement as of the time it was declared effective.

(b) that, for the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus will be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time will be deemed to be the initial bona fide offering thereof.

6. Registrant undertakes to send by first class mail or other means designed to ensure equally prompt delivery, within two business days of receipt of a written or oral request, any Statement of Additional Information.

7. Registrant undertakes to only offer rights to purchase common and preferred shares together after a post-effective amendment to the Registration Statement relating to such rights has been declared effective.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933 and the Investment Company Act of 1940, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Rye, and State of New York, on the 14th day of September, 2017.

ELLSWORTH GROWTH AND INCOME FUND LTD.

By: /s/ James A. Dinsmore
James A. Dinsmore
President

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons in the capacities indicated and on the 14th day of September, 2017.

NAME	TITLE
/s/ James A. Dinsmore James A. Dinsmore	President and Trustee (Principal Executive Officer)
/s/ John C. Ball John C. Ball	Treasurer (Principal Financial and Accounting Officer)
* Mario J. Gabelli	Trustee
* Kinchen C. Bizzell	Trustee
* Elizabeth C. Bogan	Trustee
* James P. Conn	Trustee
* Frank J. Fahrenkopf, Jr.	Trustee
* Daniel D. Harding	Trustee
* Michael J. Melarkey	Trustee
* Kuni Nakamura	Trustee
* Nicholas W. Platt	Trustee
* Anthonie C. van Ekris	Trustee

/s/ James A. Dinsmore Attorney-in-Fact
James A. Dinsmore

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* Pursuant to Powers of Attorney

EXHIBIT INDEX

Exhibit Number	Description of Exhibit
(a)(iv)	Statement of Preferences for 5.25% Series A Cumulative Preferred Shares
(h)(i)	Form of Underwriting Agreement
(h)(ii)	Form of Master Agreement Among Underwriters
(h)(iii)	Form of Master Selected Dealers Agreement
(k)(ii)	Addendum to Registrar, Transfer Agency and Service Agreement
(l)(ii)	Opinion and Consent of Skadden, Arps, Slate, Meagher & Flom LLP with respect to legality of the 5.25% Series A Cumulative Preferred Shares

Exhibit (a)(iv)

ELLSWORTH GROWTH AND INCOME FUND LTD.

STATEMENT OF PREFERENCES
OF
5.25% SERIES A CUMULATIVE PREFERRED SHARES

Ellsworth Growth and Income Fund Ltd., a Delaware statutory trust (the "Trust"), hereby certifies that:

FIRST: The Board of Trustees of the Trust, at a meeting duly convened and held on August 24, 2017, (i) pursuant to authority expressly vested in it by the Amended and Restated Agreement and Declaration of Trust of the Trust, adopted resolutions classifying an unlimited number of shares as authorized but unissued preferred shares of the Trust, par value $0.01 per share, and (ii) authorized the designation, issuance and sale of up to $30 million in liquidation preference of such preferred shares at such times, in such amounts and on such terms and conditions as a pricing committee of the Board of Trustees (the "Pricing Committee") should determine.

SECOND: The Pricing Committee, at a meeting duly convened and held on September 13, 2017, pursuant to the authority granted it by the Board of Trustees at its August 24, 2017 meeting, approved the designation and issuance by the Trust of up to 1,200,000 shares of 5.25% Series A Cumulative Preferred Shares, par value $0.01 per share.

THIRD: The preferences, rights, voting powers, restrictions, limitations as to dividends and distributions, qualifications, and terms and conditions of redemption of the Trust's 5.25% Series A Cumulative Preferred Shares, par value $0.01 per share, as set by the Pricing Committee and the Board of Trustees, are as follows:

DESIGNATION

5.25% Series A Cumulative Preferred Shares: A series of 1,200,000 preferred shares, par value $0.01 per share, liquidation preference $25.00 per share, is hereby designated "5.25% Series A Cumulative Preferred Shares" (the "Series A Preferred Shares"). Each Series A Preferred Share may be issued on a date to be determined by the Board of Trustees or its delegates and as are set forth in this Statement of Preferences; and shall have such other preferences, rights, voting powers, restrictions, limitations as to dividends and distributions, qualifications and terms and conditions of redemption, in addition to those required by applicable law or set forth in the Governing Documents applicable to preferred shares of the Trust ("Preferred Shares"), as are set forth in this Statement of Preferences. The Series A Preferred Shares shall constitute a separate series of Preferred Shares.

This Statement of Preferences sets forth the rights, powers, preferences and privileges of the holders of the Series A Preferred Shares and the provisions set forth herein shall operate either as additions to or modifications of the rights, powers, preferences and privileges of the holders of the Series A Preferred Shares under the Declaration (as defined herein), as the context may require. To the extent the provisions set forth herein conflict with the provisions of the Declaration with respect to any such rights, powers, preferences and privileges, this Statement of Preferences shall control. Except as contemplated by the immediately preceding sentence, the Declaration shall control as to the Trust generally and the rights, powers, preferences and privileges of the other shareholders of the Trust.

PART I

DEFINITIONS

Unless the context or use indicates another or different meaning or intent, each of the following terms when used in this Statement of Preferences shall have the meaning ascribed to it below, whether such term is used in the singular or plural and regardless of tense:

"1940 Act" means the Investment Company Act of 1940, as amended, or any successor statute.

"Adjusted Value" of each Eligible Asset shall be computed as follows:

(a) cash shall be valued at 100% of the face value thereof; and

(b) all other Eligible Assets shall be valued at the Discounted Value thereof; and

(c) each asset that is not an Eligible Asset shall be valued at zero.

"Adviser" means Gabelli Funds, LLC, a New York limited liability company, or such other Person as shall be serving as the investment adviser of the Trust.

"Asset Coverage" means asset coverage, as determined in accordance with Section 18(h) of the 1940 Act, of at least 200% with respect to all outstanding senior securities of the Trust which are stock, including all Outstanding Series A Preferred Shares (or such other asset coverage as may in the future be specified in or under the 1940 Act as the minimum asset coverage for senior securities which are stock of a closed-end investment company as a condition of declaring dividends on its common stock), determined on the basis of values calculated as of a time within 48 hours (not including Saturdays, Sundays or holidays) next preceding the time of such determination.

"Basic Maintenance Amount," with respect to the Series A Preferred Shares, has the meaning set forth in the Moody's Guidelines or, if any Other Rating Agency is rating the Series A Preferred Shares at the Trust's request, the meaning set forth in the guidelines of the Other Rating Agency, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other series of Preferred Shares.

"Basic Maintenance Amount Cure Date" means, with respect to the Series A Preferred Shares, 10 Business Days following a Valuation Date, such date being the last day upon which the Trust's failure to comply with paragraph 6(a)(ii) of Part II hereof could be cured, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other class or series of Preferred Shares.

"Board of Trustees" means the Board of Trustees of the Trust or any duly authorized committee thereof as permitted by applicable law.

"Business Day" means a day on which the NYSE American LLC is open for trading and that is neither a Saturday nor a Sunday.

"By-Laws" means the By-Laws of the Trust, as amended from time to time.

"Common Shares" means the common shares of beneficial interest, par value $0.01 per share, of the Trust.

"Cure Date" shall have the meaning set forth in paragraph 4(a) of Part II hereof.

"Date of Original Issue" means September 18, 2017 with respect to the Series A Preferred Shares, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other class or series of Preferred Shares.

"Declaration" means the Amended and Restated Agreement and Declaration of Trust of the Trust, dated as of January 16, 2006, as amended on January 20, 2015 and September 9, 2015, and as further amended, supplemented or restated from time to time (including by this Statement of Preferences or by way of any other supplement or Statement of Preferences authorizing or creating a class of shares of beneficial interest in the Trust).

"Deposit Assets" means cash, Short Term Money Market Instruments and U.S. Government Obligations. Except for determining whether the Trust has Eligible Assets with an Adjusted Value equal to or greater than the Basic Maintenance Amount, each Deposit Asset shall be deemed to have a value equal to its principal or face amount payable at maturity plus any interest payable thereon after delivery of such Deposit Asset but only if payable on or prior to the applicable payment date in advance of which the relevant deposit is made.

"Discount Factor" means (a) so long as Moody's is rating the Series A Preferred Shares at the Trust's request, the Moody's Discount Factor, or (b) any applicable discount factor established by any Other Rating Agency, whichever is applicable.

"Discounted Value" means, as applicable, (a) the quotient of the Market Value of an Eligible Asset divided by the applicable Discount Factor or (b) such other formula for determining the discounted value of an Eligible Asset as may be established by an applicable Rating Agency, provided, in either case that with respect to an Eligible Asset that is currently callable, Discounted Value will be equal to the applicable quotient or product as calculated above or the call price, whichever is lower, and that with respect to an Eligible Asset that is prepayable, Discounted Value will be equal to the applicable quotient or product as calculated above or the par value, whichever is lower.

"Dividend Disbursing Agent" means, with respect to the Series A Preferred Shares, American Stock Transfer & Trust Company and its successors or any other dividend disbursing agent appointed by the Trust and, with respect to any other class or series of Preferred Shares, the Person appointed by the Trust as dividend disbursing or paying agent with respect to such class or series.

"Dividend Payment Date" means with respect to the Series A Preferred Shares, any date on which dividends and distributions declared by, or under authority granted by, the Board of Trustees thereon are payable pursuant to the provisions of paragraph 2(a) of Part II of this Statement of Preferences and shall for the purposes of this Statement of Preferences have a correlative meaning with respect to any other class or series of Preferred Shares.

"Dividend Period" shall have the meaning set forth in paragraph 2(a) of Part II hereof, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other class or series of Preferred Shares.

"Eligible Assets" means Moody's Eligible Assets (if Moody's is then rating the Series A Preferred Shares at the request of the Trust) and/or Other Rating Agency Eligible Assets if any Other Rating Agency is then rating the Series A Preferred Shares, or any other outstanding series of Preferred Shares, at the request of the Trust, whichever is applicable.

"Governing Documents" means the Declaration and the By-Laws.

"Liquidation Preference" shall, with respect to the Series A Preferred Shares, have the meaning set forth in paragraph 3(a) of Part II hereof, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other class or series of Preferred Shares.

"Market Value" means the amount determined by the Trust with respect to specific Eligible Assets in accordance with valuation policies adopted from time to time by the Board of Trustees as being in compliance with the requirements of the 1940 Act.

"Moody's" means Moody's Investors Service, Inc. and its successors at law.

"Moody's Discount Factor" means the discount factors set forth in the Moody's Guidelines as eligible for inclusion in calculating the Discounted Value of the Trust's assets in connection with Moody's ratings of Preferred Shares.

"Moody's Eligible Assets" means the assets of the Trust set forth in the Moody's Guidelines as eligible for inclusion in calculating the Discounted Value of the Trust's assets in connection with Moody's ratings of the Series A Preferred Shares.

"Moody's Guidelines" means the guidelines provided by Moody's, as may be amended from time to time, in connection with Moody's ratings of the Series A Preferred Shares at the rating then assigned.

"Notice of Redemption" shall have the meaning set forth in paragraph 4(c)(i) of Part II hereof.

"Other Rating Agency" means any rating agency other than Moody's then providing a rating for the Series A Preferred Shares at the request of the Trust, and for the purpose of this Statement of Preferences shall have a correlative meaning with respect to any other series of Preferred Shares.

"Outside Redemption Date" means the 30th Business Day after a Cure Date.

"Other Rating Agency Eligible Assets" means assets of the Trust designated by any Other Rating Agency as eligible for inclusion in calculating the Discounted Value of the Trust assets in connection with such Other Rating Agency's rating of the Series A Preferred Shares.

"Outstanding" means, as of any date, Preferred Shares theretofore issued by the Trust except:

(a) any such Preferred Share theretofore cancelled by the Trust or delivered to the Trust for cancellation;

(b) any such Preferred Share as to which a notice of redemption shall have been given and for whose payment at the redemption thereof Deposit Assets in the necessary amount are held by the Trust in trust for, or have been irrevocably deposited with the relevant disbursing agent for payment to, the holder of such share pursuant to this Statement of Preferences with respect thereto; and

(c) any such Preferred Share in exchange for or in lieu of which other shares have been issued and delivered.

Notwithstanding the foregoing, for purposes of voting rights (including the determination of the number of shares required to constitute a quorum), any Preferred Shares as to which the Trust or any subsidiary of the Trust is the holder will be disregarded and deemed not Outstanding.

"Person" means and includes an individual, a partnership, the Trust, a trust, a corporation, a limited liability company, an unincorporated association, a joint venture or other entity or a government or any agency or political subdivision thereof.

"Preferred Shares" means all series of the preferred shares, par value $0.01 per share, of the Trust, and includes the Series A Preferred Shares.

"Rating Agency" means Moody's as long as Moody's is then rating the Series A Preferred Shares at the Trust's request or any Other Rating Agency then rating the Series A Preferred Shares at the Trust's request.

"Record Date" shall have the meaning set forth in paragraph 2(a) of Part II hereof, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other class or series of Preferred Shares.

"Redemption Price" has the meaning set forth in paragraph 4(a) of Part II hereof, and for the purposes of this Statement of Preferences shall have a correlative meaning with respect to any other class or series of Preferred Shares.

"Series A Preferred Shares" means the 5.25% Series A Cumulative Preferred Shares, par value $0.01 per share, of the Trust.

"Series A Asset Coverage Cure Date" means, with respect to the failure by the Trust to maintain Asset Coverage (as required by paragraph 6(a)(i) of Part II hereof) as of the last Business Day of each March, June, September and December of each year, 49 days following such Business Day.

"Short Term Money Market Instruments" means the following types of instruments if, on the date of purchase or other acquisition thereof by the Trust, the remaining term to maturity thereof is not in excess of 180 days:

(i) commercial paper rated A-1 if such commercial paper matures in 30 days or A-1+ if such commercial paper matures in over 30 days;

(ii) demand or time deposits in, and banker's acceptances and certificates of deposit of (A) a depository institution or trust company incorporated under the laws of the United States of America or any state thereof or the District of Columbia or (B) a United States branch office or agency of a foreign depository institution (provided that such branch office or agency is subject to banking regulation under the laws of the United States, any state thereof or the District of Columbia);

(iii) overnight funds; and

(iv) U.S. Government Obligations.

"Trust" means Ellsworth Growth and Income Fund Ltd., a Delaware statutory trust.

"U.S. Government Obligations" means direct obligations of the United States or obligations issued by its agencies or instrumentalities that are entitled to the full faith and credit of the United States and that, other than United States Treasury Bills, provide for the periodic payment of interest and the full payment of principal at maturity or call for redemption.

"Valuation Date" means the last Business Day of each month, or such other date as the Trust and the Rating Agency may agree to for purposes of determining the Basic Maintenance Amount.

"Voting Period" shall have the meaning set forth in paragraph 5(b) of Part II hereof.

PART II

5.25% SERIES A CUMULATIVE PREFERRED SHARES

1. Number of Shares; Ranking.

(a) The initial number of authorized Shares constituting the Series A Preferred Shares to be issued is 1,200,000. No fractional Series A Preferred Shares shall be issued.

(b) Series A Preferred Shares which at any time have been redeemed or purchased by the Trust shall, after such redemption or purchase, have the status of authorized but unissued Preferred Shares.

(c) The Series A Preferred Shares shall rank on a parity with any other series of Preferred Shares as to the payment of dividends, distributions and liquidation preference to which such Shares are entitled.

(d) No holder of Series A Preferred Shares shall have, solely by reason of being such a holder, any preemptive or other right to acquire, purchase or subscribe for any Preferred Shares or Common Shares or other securities of the Trust which it may hereafter issue or sell.

2. Dividends and Distributions.

(a) Holders of Series A Preferred Shares shall be entitled to receive, when, as and if declared by, or under authority granted by, the Board of Trustees, out of funds legally available therefor, cumulative cash dividends and distributions at the rate of 5.25% per annum (computed on the basis of a 360-day year consisting of twelve 30-day months) of the Liquidation Preference on the Series A Preferred Shares and no more, payable quarterly on March 26, June 26, September 26 and December 26 in each year (each a "Dividend Payment Date") commencing on December 26, 2017 (or, if any such day is not a Business Day, then on the next succeeding Business Day). Dividends and distributions will be payable to holders of record of Series A Preferred Shares as they appear on the share register of the Trust at the close of business on the fifth preceding Business Day (each, a "Record Date") in preference to dividends and distributions on Common Shares and any other capital shares of the Trust ranking junior to the Series A Preferred Shares in payment of dividends and distributions. Dividends and distributions on Series A Preferred Shares that were originally issued on the Date of Original Issue shall accumulate from the Date of Original Issue. Dividends and distributions on all other Series A Preferred Shares shall accumulate from (i) the date on which such shares are originally issued if such date is a Dividend Payment Date, (ii) the immediately preceding Dividend Payment Date if the date on which such shares are originally issued is other than a Dividend Payment Date and is on or before a Record Date or (iii) the immediately following Dividend Payment Date if the date on which such shares are originally issued is during the period between a Record Date and a Dividend Payment Date. Each period beginning on and including a Dividend Payment Date (or the Date of Original Issue, in the case of the first dividend period after the issuance of such shares) and ending on but excluding the next succeeding Dividend Payment Date is referred to herein as a "Dividend Period." Dividends and distributions on account of arrears for any past Dividend Period or in connection with the redemption of Series A Preferred Shares may be declared and

paid at any time, without reference to any Dividend Payment Date, to holders of record on such date not exceeding 30 days preceding the payment date thereof as shall be fixed by the Board of Trustees.

(b) (i) No full dividends or distributions shall be declared or paid on Series A Preferred Shares for any Dividend Period or part thereof unless full cumulative dividends and distributions due through the most recent Dividend Payment Dates therefor for all series of Preferred Shares ranking on a parity with the Series A Preferred Shares as to the payment of dividends and distributions have been or contemporaneously are declared and paid through the most recent Dividend Payment Dates therefor. If full cumulative dividends and distributions due have not been paid on all such Outstanding Preferred Shares, any dividends and distributions being paid on such Preferred Shares (including the Series A Preferred Shares) will be paid as nearly pro rata as possible in proportion to the respective amounts of dividends and distributions accumulated but unpaid on each such series of Preferred Shares on the relevant Dividend Payment Date. No holders of Series A Preferred Shares shall be entitled to any dividends or distributions, whether payable in cash, property or shares, in excess of full cumulative dividends and distributions as provided in this paragraph 2(b)(i) on Series A Preferred Shares. No interest or sum of money in lieu of interest shall be payable in respect of any dividend payments on any Series A Preferred Shares that may be in arrears.

(ii) For so long as Series A Preferred Shares are Outstanding, the Trust shall not pay any dividend or other distribution (other than a dividend or distribution paid in Common Shares, or options, warrants or rights to subscribe for or purchase Common Shares or other shares, if any, ranking junior to the Series A Preferred Shares as to dividends and upon liquidation) in respect of the Common Shares or any other shares of the Trust ranking junior to the Series A Preferred Shares as to the payment of dividends and the distribution of assets upon liquidation, or call for redemption, redeem, purchase or otherwise acquire for consideration any Common Shares or any other shares of the Trust ranking junior to the Series A Preferred Shares as to the payment of dividends and the distribution of assets upon liquidation (except by conversion into or exchange for shares of the Trust ranking junior to the Series A Preferred Shares as to dividends and upon liquidation), unless, in each case, (A) immediately thereafter, the aggregate Adjusted Value of the Trust's Eligible Assets shall equal or exceed the Basic Maintenance Amount and the Trust shall have Asset Coverage, (B) all cumulative dividends and distributions on all Series A Preferred Shares due on or prior to the date of the transaction have been declared and paid (or shall have been declared and sufficient funds for the payment thereof deposited with the applicable Dividend Disbursing Agent) and (C) the Trust has redeemed the full number of Series A Preferred Shares to be redeemed mandatorily pursuant to any provision contained herein for mandatory redemption.

(iii) Any dividend payment made on the Series A Preferred Shares shall first be credited against the dividends and distributions accumulated with respect to the earliest Dividend Period for which dividends and distributions have not been paid.

(c) Not later than the Business Day immediately preceding each Dividend Payment Date, the Trust shall deposit with the Dividend Disbursing Agent Deposit Assets having an initial combined value sufficient to pay the dividends and distributions that are payable on such Dividend Payment Date, which Deposit Assets shall mature (if such assets constitute debt securities or time deposits) on or prior to such Dividend Payment Date. The Trust may direct the Dividend Disbursing Agent with respect to the investment of any such Deposit Assets, provided that such investment consists exclusively of Deposit Assets and provided further that the proceeds of any such investment will be available at the opening of business on such Dividend Payment Date.

3. Liquidation Rights.

(a) In the event of any liquidation, dissolution or winding up of the affairs of the Trust, whether voluntary or involuntary, the holders of Series A Preferred Shares shall be entitled to receive out of the assets of the Trust available for distribution to shareholders, after satisfying claims of creditors but before any distribution or payment shall be made in respect of the Common Shares or any other shares of the Trust ranking junior to the Series A Preferred Shares as to liquidation payments, a liquidation distribution in the amount of $25.00 per share (the "Liquidation Preference"), plus an amount equal to all unpaid dividends and distributions accumulated to and including the date fixed for such distribution or payment (whether or not earned or declared by the Trust, but excluding interest thereon), and such holders shall be entitled to no further participation in any distribution or payment in connection with any such liquidation, dissolution or winding up of the Trust.

(b) If, upon any liquidation, dissolution or winding up of the affairs of the Trust, whether voluntary or involuntary, the assets of the Trust available for distribution among the holders of all Outstanding Series A Preferred Shares, and any other Outstanding class or series of Preferred Shares ranking on a parity with the Series A Preferred Shares as to payment upon liquidation, shall be insufficient to permit the payment in full to such holders of Series A Preferred Shares of the Liquidation Preference plus accumulated and unpaid dividends and distributions and the amounts due upon liquidation with respect to such other Preferred Shares, then such available assets shall be distributed among the holders of Series A Preferred Shares and such other Preferred Shares ratably in proportion to the respective preferential liquidation amounts to which they are entitled. Unless and until the Liquidation Preference plus accumulated and unpaid dividends and distributions has been paid in full to the holders of Series A Preferred Shares, no dividends or distributions will be made to holders of the Common Shares or any other shares of the Trust ranking junior to the Series A Preferred Shares as to liquidation.

4. Redemption.

The Series A Preferred Shares shall be redeemed by the Trust as provided below:

(a) Mandatory Redemptions.

If the Trust is required to redeem any Preferred Shares (which may include Series A Preferred Shares) pursuant to paragraphs 6(b) or 6(c) of Part II hereof, then the Trust shall, to the extent permitted by the 1940 Act and Delaware law, by the close of business on such Series A Asset Coverage Cure Date or Basic Maintenance Amount Cure Date (herein collectively referred to as a "Cure Date"), as the case may be, fix a redemption date that is on or before the Outside Redemption Date and proceed to redeem shares as set forth in paragraph 4(c) hereof; provided, however, that the Trust may fix a redemption date that is after the Outside Redemption Date if the Board of Trustees determines in good faith that extraordinary market conditions exist as a result of which disposal by the Trust of securities owned by it is not reasonably practicable, or is not reasonably practicable at fair value. On such redemption date, the Trust shall redeem, out of funds legally available therefor, (i) the number of Preferred Shares, which, to the extent permitted by the 1940 Act and Delaware law, at the option of the Trust may include any proportion of Series A Preferred Shares or any other series of Preferred Shares, equal to the minimum number of shares the redemption of which, if such redemption had occurred immediately prior to the opening of business on such Cure Date, would have resulted in the Trust having Asset Coverage or an Adjusted Value of its Eligible Assets equal to or greater than the Basic Maintenance Amount, as the case may be, immediately prior to the opening of business on such Cure Date or (ii) if such Asset Coverage or an Adjusted Value of its Eligible Assets equal to or greater than the Basic Maintenance Amount, as the case may be, cannot be so restored, all of the Outstanding Series A Preferred Shares, at a price equal to $25.00 per share plus accumulated but unpaid dividends and distributions (whether or not earned or

declared by the Trust) through the date of redemption (the "Redemption Price"). In the event that Preferred Shares are redeemed pursuant to paragraphs 6(b) or 6(c) of Part II hereof, the Trust may, but is not required to, redeem an additional number of Series A Preferred Shares pursuant to this paragraph 4(a) which, when aggregated with other Preferred Shares redeemed by the Trust, permits the Trust to have with respect to the Preferred Shares (including the Series A Preferred Shares) remaining Outstanding after such redemption (i) Asset Coverage of as much as 220% and (ii) Eligible Assets with Adjusted Value of as great as 110% of the Basic Maintenance Amount. In the event that all of the Series A Preferred Shares then Outstanding are required to be redeemed pursuant to paragraph 6 of Part II hereof, the Trust shall redeem such shares at the Redemption Price and proceed to do so as set forth in paragraph 4(c) hereof.

(b) Optional Redemptions.

Prior to September 18, 2022, the Series A Preferred Shares are not subject to optional redemption by the Trust unless such redemption is necessary, in the judgment of the Board of Trustees, to maintain the Trust's status as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended. Commencing September 18, 2022, and thereafter, and prior thereto to the extent necessary to maintain the Trust's status as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended, to the extent permitted by the 1940 Act and Delaware law, the Trust may at any time upon Notice of Redemption redeem the Series A Preferred Shares in whole or in part at the Redemption Price per share, which notice shall specify a redemption date of not fewer than 15 days nor more than 40 days after the date of such notice.

(c) Procedures for Redemption.

(i) If the Trust shall determine or be required to redeem Series A Preferred Shares pursuant to this paragraph 4, it shall mail a written notice of redemption ("Notice of Redemption") with respect to such redemption by first class mail, postage prepaid, to each holder of the shares to be redeemed at such holder's address as the same appears on the share register of the Trust on the close of business on such date as the Board of Trustees or its delegatee may determine, which date shall not be earlier than the second Business Day prior to the date upon which such Notice of Redemption is mailed to the holders of Series A Preferred Shares. Each such Notice of Redemption shall state: (A) the redemption date as established by the Board of Trustees or its delegatee; (B) the number of Series A Preferred Shares to be redeemed; (C) the CUSIP number(s) of such shares; (D) the Redemption Price (specifying the amount of accumulated dividends and distributions to be included therein); (E) the place or places where the certificate(s) for such shares (properly endorsed or assigned for transfer, if the Board of Trustees or its delegatee shall so require and the Notice of Redemption shall so state), if any, are to be surrendered for payment in respect of such redemption; (F) that dividends and distributions on the shares to be redeemed will cease to accrue on such redemption date; (G) the provisions of this paragraph 4 under which such redemption is made; and (H) in the case of a redemption pursuant to paragraph 4(b), any conditions precedent to such redemption. If fewer than all Series A Preferred Shares held by any holder are to be redeemed, the Notice of Redemption mailed to such holder also shall specify the number or percentage of shares to be redeemed from such holder. No defect in the Notice of Redemption or the mailing thereof shall affect the validity of the redemption proceedings, except as required by applicable law.

(ii) If the Trust shall give a Notice of Redemption, then by the close of business on the Business Day preceding the redemption date specified in the Notice of Redemption (so long as any conditions precedent to such redemption have been met) or, if the Dividend Disbursing Agent so agrees, another date not later than the redemption date, the Trust shall (A) deposit with the Dividend Disbursing Agent Deposit Assets that shall mature (if such assets constitute debt securities or time deposits) on or prior to such redemption date having an initial combined value sufficient to effect the redemption of the Series A Preferred Shares to be redeemed and (B) give the Dividend Disbursing Agent irrevocable instructions and authority to pay

the Redemption Price to the holders of the Series A Preferred Shares called for redemption on the redemption date. The Trust may direct the Dividend Disbursing Agent with respect to the investment of any Deposit Assets so deposited provided that the proceeds of any such investment will be available at the opening of business on such redemption date. Upon the date of such deposit (unless the Trust shall default in making payment of the Redemption Price), all rights of the holders of the Series A Preferred Shares so called for redemption shall cease and terminate except the right of the holders thereof to receive the Redemption Price thereof and such shares shall no longer be deemed Outstanding for any purpose. The Trust shall be entitled to receive, promptly after the date fixed for redemption, any cash in excess of the aggregate Redemption Price of the Series A Preferred Shares called for redemption on such date and any remaining Deposit Assets. Any assets so deposited that are unclaimed at the end of two years from such redemption date shall, to the extent permitted by law, be repaid to the Trust, after which the holders of the Series A Preferred Shares so called for redemption shall look only to the Trust for payment of the Redemption Price thereof. The Trust shall be entitled to receive, from time to time after the date fixed for redemption, any interest on the Deposit Assets so deposited.

(iii) On or after the redemption date, each holder of Series A Preferred Shares that are subject to redemption shall surrender such shares to the Trust as instructed in the Notice of Redemption and shall then be entitled to receive the cash Redemption Price, without interest.

(iv) In the case of any redemption of less than all of the Series A Preferred Shares pursuant to this Statement of Preferences, such redemption shall be made pro rata from each holder of Series A Preferred Shares in accordance with the respective number of shares held by each such holder on the record date for such redemption.

(v) Notwithstanding the other provisions of this paragraph 4, the Trust shall not redeem any Series A Preferred Shares unless all accumulated and unpaid dividends and distributions on all Outstanding Series A Preferred Shares and other Preferred Shares ranking on a parity with the Series A Preferred Shares with respect to dividends and distributions for all applicable past Dividend Periods (whether or not earned or declared by the Trust) shall have been or are contemporaneously paid or declared and Deposit Assets for the payment of such dividends and distributions shall have been deposited with the Dividend Disbursing Agent as set forth in paragraph 2(c) of Part II hereof, provided, however, that the foregoing shall not prevent the purchase or acquisition of Outstanding Preferred Shares pursuant to the successful completion of an otherwise lawful purchase or exchange offer made on the same terms to holders of all Outstanding Series A Preferred Shares.

If the Trust shall not have funds legally available for the redemption of, or is otherwise unable to redeem, all the Series A Preferred Shares or other Preferred Shares designated to be redeemed on any redemption date, the Trust shall redeem on such redemption date the number of Series A Preferred Shares and other Preferred Shares so designated as it shall have legally available funds, or is otherwise able, to redeem ratably on the basis of the Redemption Price from each holder whose shares are to be redeemed, and the remainder of the Series A Preferred Shares and other Preferred Shares designated to be redeemed shall be redeemed on the earliest practicable date on which the Trust shall have funds legally available for the redemption of, or is otherwise able to redeem, such shares upon Notice of Redemption.

5. Voting Rights.

(a) General.

Except as otherwise provided in the Governing Documents or a resolution of the Board of Trustees, or as required by applicable law, holders of Series A Preferred Shares shall have no power to vote on any matter except matters submitted to a vote of the Common Shares. In any matter submitted to a vote of the

holders of the Common Shares, each holder of Series A Preferred Shares shall be entitled to one vote for each Series A Preferred Share held and the holders of the Outstanding Preferred Shares, including Series A Preferred Shares, and the Common Shares shall vote together as a single class; provided, however, that the holders of the Outstanding Preferred Shares, including Series A Preferred Shares, shall be entitled, as a separate class, to the exclusion of the holders of all other securities and classes of capital shares of the Trust, to elect 2 of the Trust's trustees. Subject to paragraph 5(b) of Part II hereof, the holders of the outstanding capital shares of the Trust, including the holders of the Outstanding Preferred Shares, including the Series A Preferred Shares, voting as a single class, shall elect the balance of the trustees.

(b) Right to Elect Majority of Board of Trustees.

During any period in which any one or more of the conditions described below shall exist (such period being referred to herein as a "Voting Period"), the number and/or composition of trustees constituting the Board of Trustees shall be automatically adjusted as necessary to permit the holders of Outstanding Preferred Shares, including the Series A Preferred Shares, voting separately as one class (to the exclusion of the holders of all other securities and classes of capital shares of the Trust) to elect the number of trustees that, when added to the 2 trustees elected exclusively by the holders of Preferred Shares pursuant to paragraph 5(a) above, would constitute a simple majority of the Board of Trustees as so adjusted. The Trust and the Board of Trustees shall take all necessary actions, including effecting the removal of trustees or amendment of the Declaration, to effect an adjustment of the number and/or composition of trustees as described in the preceding sentence. A Voting Period shall commence:

(i) if at any time accumulated dividends and distributions (whether or not earned or declared, and whether or not funds are then legally available in an amount sufficient therefor) on the Outstanding Series A Preferred Shares equal to at least 2 full years' dividends and distributions shall be due and unpaid and sufficient Deposit Assets shall not have been deposited with the Dividend Disbursing Agent for the payment of such accumulated dividends and distributions; or

(ii) if at any time holders of any other Preferred Shares are entitled to elect a majority of the trustees of the Trust under the 1940 Act or Statement of Preferences creating such shares.

Upon the termination of a Voting Period, the voting rights described in this paragraph 5(b) shall cease, subject always, however, to the reverting of such voting rights in the holders of Preferred Shares upon the further occurrence of any of the events described in this paragraph 5(b).

(c) Right to Vote with Respect to Certain Other Matters.

Subject to paragraph 1 of Part III of this Statement of Preferences, so long as any Series A Preferred Shares are Outstanding, the Trust shall not, without the affirmative vote of the holders of a majority (as defined in the 1940 Act) of the Preferred Shares Outstanding at the time, voting separately as one class, amend, alter or repeal the provisions of this Statement of Preferences so as to in the aggregate adversely affect the rights and preferences set forth in any Statement of Preferences, including the Series A Preferred Shares. To the extent permitted under the 1940 Act, in the event that more than one series of Preferred Shares are Outstanding, the Trust shall not effect any of the actions set forth in the preceding sentence which in the aggregate adversely affects the rights and preferences set forth in the Statement of Preferences for a series of Preferred Shares differently than such rights and preferences for any other series of Preferred Shares without the affirmative vote of the holders of at least a majority of the Preferred Shares Outstanding of each series adversely affected (each such adversely affected series voting separately as a class to the extent its rights are affected differently). The holders of the Series A Preferred Shares shall not be entitled to vote on any matter that affects the rights or interests of only one or more other series of Preferred Shares. The Trust shall notify the relevant Rating Agency 10 Business Days prior

to any such vote described above. Unless a higher percentage is required under the Governing Documents or applicable provisions of the Delaware Statutory Trust Act or the 1940 Act, the affirmative vote of the holders of a majority of the Outstanding Preferred Shares, including Series A Preferred Shares, voting together as a single class, will be required to approve any plan of reorganization adversely affecting the Preferred Shares or any action requiring a vote of security holders under Section 13(a) of the 1940 Act. For purposes of this paragraph 5(c), the phrase "vote of the holders of a majority of the Outstanding Preferred Shares" (or any like phrase) shall mean, in accordance with Section 2(a)(42) of the 1940 Act, the vote, at the annual or a special meeting of the shareholders of the Trust duly called (i) of 67 percent or more of the Preferred Shares present at such meeting, if the holders of more than 50 percent of the Outstanding Preferred Shares are present or represented by proxy; or (ii) of more than 50 percent of the Outstanding Preferred Shares, whichever is less. The class vote of holders of Preferred Shares described above will in each case be in addition to a separate vote of the requisite percentage of Common Shares and Preferred Shares, including Series A Preferred Shares, voting together as a single class, necessary to authorize the action in question. An increase in the number of authorized Preferred Shares pursuant to the Governing Documents or the issuance of additional shares of any series of Preferred Shares (including Series A Preferred Shares) pursuant to the Governing Documents shall not in and of itself be considered to adversely affect the rights and preferences of the Preferred Shares.

(d) Voting Procedures.

(i) As soon as practicable after the accrual of any right of the holders of Preferred Shares to elect additional trustees as described in paragraph 5(b) above, the Trust shall call a special meeting of such holders and instruct the Dividend Disbursing Agent to mail a notice of such special meeting to such holders, such meeting to be held not less than 10 nor more than 20 days after the date of mailing of such notice. If the Trust fails to send such notice to the Dividend Disbursing Agent or if the Trust does not call such a special meeting, it may be called by any such holder on like notice. The record date for determining the holders entitled to notice of and to vote at such special meeting shall be the close of business on the day on which such notice is mailed or such other date as the Board of Trustees shall determine. At any such special meeting and at each meeting held during a Voting Period, such holders of Preferred Shares, voting together as a class (to the exclusion of the holders of all other securities and classes of capital shares of the Trust), shall be entitled to elect the number of trustees prescribed in paragraph 5(b) above on a one-vote-per-share basis. At any such meeting, or adjournment thereof in the absence of a quorum, a majority of such holders present in person or by proxy shall have the power to adjourn the meeting without notice, other than by an announcement at the meeting, to a date not more than 120 days after the original record date.

(ii) For purposes of determining any rights of the holders of Series A Preferred Shares to vote on any matter or the number of shares required to constitute a quorum, whether such right is created by this Statement of Preferences, by the other provisions of the Governing Documents, by statute or otherwise, any Series A Preferred Share which is not Outstanding shall not be counted.

(iii) The terms of office of all persons who are trustees of the Trust at the time of a special meeting of holders of Preferred Shares to elect trustees and who remain trustees following such meeting shall continue, notwithstanding the election at such meeting by such holders of the number of trustees that they are entitled to elect, and the persons so elected by such holders, together with the 2 incumbent trustees elected by the holders of Preferred Shares and the remaining incumbent trustees elected by the holders of the Common Shares and Preferred Shares, shall constitute the duly elected trustees of the Trust.

(iv) Upon the expiration of a Voting Period, the terms of office of the additional trustees elected by the holders of Preferred Shares pursuant to paragraph 5(b) above shall expire at the earliest time permitted by law and the remaining trustees shall constitute the trustees of the Trust and the voting rights of such

holders of Preferred Shares, including Series A Preferred Shares, to elect additional trustees pursuant to paragraph 5(b) above shall cease, subject to the provisions of the last sentence of paragraph 5(b). Upon the expiration of the terms of the trustees elected by the holders of Preferred Shares pursuant to paragraph 5(b) above, the number of trustees shall be automatically reduced to the number of trustees on the Board immediately preceding such Voting Period.

(e) Exclusive Remedy.

Unless otherwise required by law, the holders of Series A Preferred Shares shall not have any rights or preferences other than those specifically set forth herein. The holders of Series A Preferred Shares shall have no preemptive rights or rights to cumulative voting. In the event that the Trust fails to pay any dividends and distributions on the Series A Preferred Shares, the exclusive remedy of the holders shall be the right to vote for trustees pursuant to the provisions of this paragraph 5.

(f) Notification to Rating Agency.

In the event a vote of holders of Series A Preferred Shares is required pursuant to the provisions of Section 13(a) of the 1940 Act, as long as the Series A Preferred Shares are then rated by a Rating Agency at the Trust's request, the Trust shall, not later than 10 Business Days prior to the date on which such vote is to be taken, notify the relevant Rating Agency that such vote is to be taken and the nature of the action with respect to which such vote is to be taken and, not later than 10 Business Days after the date on which such vote is taken, notify such Rating Agency of the result of such vote.

6. Coverage Tests.

(a) Determination of Compliance.

For so long as any Series A Preferred Shares are Outstanding, the Trust shall make the following determinations:

(i) Asset Coverage. The Trust shall have Asset Coverage as of the last Business Day of each March, June, September and December of each year in which any Series A Preferred Shares are Outstanding.

(ii) Basic Maintenance Amount Requirement.

For so long as any Series A Preferred Shares are Outstanding and are rated by a Rating Agency at the Trust's request, the Trust shall maintain, on each Valuation Date, Eligible Assets having an Adjusted Value at least equal to the Basic Maintenance Amount, as of such Valuation Date. Upon any failure to maintain Eligible Assets having an Adjusted Value at least equal to the Basic Maintenance Amount, the Trust shall use all commercially reasonable efforts to retain Eligible Assets having an Adjusted Value at least equal to the Basic Maintenance Amount on or prior to the Basic Maintenance Amount Cure Date, by altering the composition of its portfolio or otherwise.

(b) Failure to Meet Asset Coverage.

If the Trust fails to have Asset Coverage as provided in paragraph 6(a)(i) hereof and such failure is not cured as of the related Series A Asset Coverage Cure Date, (i) the Trust shall give a Notice of Redemption as described in paragraph 4 of Part II hereof with respect to the redemption of a sufficient number of Preferred Shares, which at the Trust's determination (to the extent permitted by the 1940 Act and Delaware law) may include any proportion of Series A Preferred Shares, to enable it to meet the requirements of paragraph 6(a)(i) above, and, at the Trust's discretion, such additional number of Series A

Preferred Shares or other Preferred Shares in order that the Trust have Asset Coverage with respect to the Series A Preferred Shares and any other Preferred Shares remaining Outstanding after such redemption as great as 220%, and (ii) deposit with the Dividend Disbursing Agent Deposit Assets having an initial combined value sufficient to effect the redemption of the Series A Preferred Shares or other Preferred Shares to be redeemed, as contemplated by paragraph 4 of Part II hereof.

(c) Failure to Maintain Eligible Assets having an Adjusted Value at Least Equal to the Basic Maintenance Amount.

If the Trust fails to have Eligible Assets having an Adjusted Value at least equal to the Basic Maintenance Amount as provided in paragraph 6(a)(ii) above and such failure is not cured, the Trust shall, on or prior to the Basic Maintenance Amount Cure Date, (i) give a Notice of Redemption as described in paragraph 4 of Part II hereof with respect to the redemption of a sufficient number of Series A Preferred Shares or other Preferred Shares to enable it to meet the requirements of paragraph 6(a)(ii) above, and, at the Trust's discretion, such additional number of Series A Preferred Shares or other Preferred Shares in order that the Trust have Eligible Assets with an Adjusted Value with respect to the remaining Series A Preferred Shares and any other Preferred Shares remaining Outstanding after such redemption as great as 110% of the Basic Maintenance Amount, and (ii) deposit with the Dividend Disbursing Agent Deposit Assets having an initial combined value sufficient to effect the redemption of the Series A Preferred Shares or other Preferred Shares to be redeemed, as contemplated by paragraph 4 of Part II hereof.

(d) Status of Shares Called for Redemption.

For purposes of determining whether the requirements of paragraphs 6(a)(i) and 6(a)(ii) hereof are satisfied, (i) no Series A Preferred Share shall be deemed to be Outstanding for purposes of any computation if, prior to or concurrently with such determination, sufficient Deposit Assets to pay the full Redemption Price for such share shall have been deposited in trust with the Dividend Disbursing Agent (or applicable paying agent) and the requisite Notice of Redemption shall have been given, and (ii) such Deposit Assets deposited with the Dividend Disbursing Agent (or paying agent) shall not be included.

7. Certain Other Restrictions.

(a) For so long as the Series A Preferred Shares are rated by a Rating Agency at the request of the Trust, the Trust will not, and will cause the Adviser not to, (i) knowingly and willfully purchase or sell any asset for the specific purpose of causing, and with the actual knowledge that the effect of such purchase or sale will be to cause, the Trust to have Eligible Assets having an Adjusted Value as of the date of such purchase or sale to be less than the Basic Maintenance Amount as of such date, (ii) in the event that, as of the immediately preceding Valuation Date, the Adjusted Value of the Trust's Eligible Assets exceeded the Basic Maintenance Amount by 5% or less, alter the composition of the Trust's assets in a manner reasonably expected to reduce the Adjusted Value of the Trust's Eligible Assets, unless the Trust shall have confirmed that, after giving effect to such alteration, the Adjusted Value of the Trust's Eligible Assets exceeded the Basic Maintenance Amount or (iii) declare or pay any dividend or other distribution on any Common Shares or repurchase any Common Shares, unless the Trust shall have confirmed that, after giving effect to such dividend, other distribution or repurchase, the Trust continued to satisfy the requirements of paragraph 6(a)(ii) of Part II hereof.

(b) For so long as the Series A Preferred Shares are rated by a Rating Agency at the request of the Trust, unless the Trust shall have received written confirmation from the relevant Rating Agency, the Trust may engage in the lending of its portfolio securities only in an amount of up to 10% of the Trust's total assets, provided that the Trust receives cash collateral for such loaned securities which is maintained at all times in an amount equal to at least 100% of the current market value of the loaned securities and, if invested, is

invested only in Short Term Money Market Instruments or in money market mutual funds meeting the requirements of Rule 2a-7 under the 1940 Act that maintain a constant $1.00 per share net asset value and treat the loaned securities rather than the collateral as the assets of the Trust for purposes of determining compliance with paragraph 6 of Part II hereof.

(c) For so long as the Series A Preferred Shares are rated by a Rating Agency at the request of the Trust, the Trust shall not consolidate the Trust with, merge the Trust into, sell or otherwise transfer all or substantially all of the Trust's assets to another Person or adopt a plan of liquidation of the Trust, in each case without providing prior written notification to the relevant Rating Agency.

8. Limitation on Incurrence of Additional Indebtedness and Issuance of Additional Preferred Shares

(a) So long as any Series A Preferred Shares are Outstanding, the Trust may issue and sell one or more series of a class of senior securities of the Trust representing indebtedness under Section 18 of the 1940 Act and/or otherwise create or incur indebtedness, provided that, immediately after giving effect to the incurrence of such indebtedness and to its receipt and application of the proceeds thereof, the Trust shall have an "asset coverage" for all senior securities representing indebtedness, as defined in Section 18(h) of the 1940 Act, of at least 300% of the amount of all indebtedness of the Trust then outstanding and no such additional indebtedness shall have any preference or priority over any other indebtedness of the Trust upon the distribution of the assets of the Trust or in respect of the payment of interest. Any possible liability resulting from lending and/or borrowing portfolio securities, entering into reverse repurchase agreements, entering into futures contracts and writing options, to the extent such transactions are made in accordance with the investment restrictions of the Trust then in effect, shall not be considered to be indebtedness limited by this paragraph 8(a).

(b) So long as any Series A Preferred Shares are Outstanding, the Trust may issue and sell shares of one or more other series of Preferred Shares constituting a series of a class of senior securities of the Trust representing stock under Section 18 of the 1940 Act in addition to the Series A Preferred Shares and other Preferred Shares then Outstanding, provided that (i) the Trust shall, immediately after giving effect to the issuance of such additional Preferred Shares and to its receipt and application of the proceeds thereof, including, without limitation, to the redemption of Preferred Shares for which a Notice of Redemption has been mailed prior to such issuance, have an "asset coverage" for all senior securities which are stock, as defined in Section 18(h) of the 1940 Act, of at least 200% of the sum of the Liquidation Preference of the Series A Preferred Shares and all other Preferred Shares then Outstanding, and (ii) no such additional Preferred Shares shall have any preference or priority over any other Preferred Shares upon liquidation or the distribution of the assets of the Trust or in respect of the payment of dividends.

PART III

ABILITY OF THE BOARD OF TRUSTEES TO MODIFY THE STATEMENT OF PREFERENCES

1. Modification to Prevent Ratings Reduction or Withdrawal.

The Board of Trustees, without further action by the shareholders, may amend, alter, add to or repeal any provision of this Statement of Preferences that has been adopted by the Trust pursuant to the Rating Agency guidelines or add covenants and other obligations of the Trust to this Statement of Preferences, if the applicable Rating Agency confirms that such amendments or modifications are necessary to prevent a reduction in, or the withdrawal of, a rating of the Preferred Shares and such amendments and

modifications do not adversely affect the rights and preferences of and are in the aggregate in the best interests of the holders of the Preferred Shares.

2. Other Modification.

The Board of Trustees, without further action by the shareholders, may amend, alter, add to or repeal any provision of this Statement of Preferences including provisions that have been adopted by the Trust pursuant to the Rating Agency guidelines, if such amendments or modifications will not in the aggregate adversely affect the rights and preferences of the holders of any series of the Preferred Shares, provided, that the Trust has received confirmation from each applicable Rating Agency that such amendment or modification would not adversely affect such Rating Agency's then-current rating of such series of the Trust's Preferred Shares.

Notwithstanding the provisions of the preceding paragraph, to the extent permitted by law, the Board of Trustees or its delegatee, without the vote of the holders of the Series A Preferred Shares or any other shares of the Trust, may amend the provisions of this Statement of Preferences to resolve any inconsistency or ambiguity or to remedy any formal defect so long as the amendment does not in the aggregate adversely affect the rights and preferences of the Series A Preferred Shares.

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IN WITNESS WHEREOF, Ellsworth Growth and Income Fund Ltd. has caused this Statement of Preferences to be signed in its name and on its behalf by a duly authorized officer, who acknowledges said instrument to be the statutory trust act of the Trust, and states that, to the best of such officer's knowledge, information and belief under penalty of perjury, the matters and facts herein set forth with respect to approval are true in all material respects, as of September 13, 2017.

By: /s/ James A. Dinsmore
Name: James A. Dinsmore
Title: President

Attest:

/s/ Andrea R. Mango
Name: Andrea R. Mango
Title: Secretary

[Ellsworth Series A Statement of Preferences Signature Page]

Exhibit (h)(i)

ELLSWORTH GROWTH AND INCOME FUND LTD.

(a Delaware Statutory Trust)

1,200,000 Shares of 5.25% Series A Cumulative Preferred Shares

UNDERWRITING AGREEMENT

September 13, 2017

Morgan Stanley & Co. LLC
As Representative of the several Underwriters Listed on Schedule A hereto

c/o Morgan Stanley & Co. LLC
1585 Broadway
New York, NY 10036

Ladies and Gentlemen:

The Ellsworth Growth and Income Fund Ltd., a Delaware statutory trust (the "Fund"), and the Fund's investment adviser, Gabelli Funds, LLC, a New York limited liability company (the "Adviser"), each confirms its agreement with Morgan Stanley & Co. LLC ("MS") and each of the other Underwriters named in Schedule A hereto (collectively, the "Underwriters," which term shall also include any underwriter substituted as hereinafter provided in Section 10 hereof), for whom MS is acting as representative (in such capacity, the "Representative"), with respect to the issue and sale by the Fund and the purchase by the Underwriters, acting severally and not jointly, of the respective number of shares set forth in said Schedule A hereto of an aggregate of 1,200,000 shares of the Fund's 5.25% Series A Cumulative Preferred Shares (the "Shares"). The Shares will be authorized by, and subject to the terms and conditions of, the Fund's Amended and Restated Agreement and Declaration of Trust, as amended, and the Statement of Preferences for the Shares dated September 13, 2017 (collectively, the "Statement").

The Fund understands that the Underwriters propose to make a public offering of the Shares as soon as the Representative deems advisable after this Agreement has been executed and delivered.

The Fund has filed with the Securities and Exchange Commission (the "Commission") a shelf registration statement on Form N-2 (File Nos. 333-219322 and 811-04656) covering the registration of the Shares under the Securities Act of 1933, as amended (the "1933 Act"), and a notification on Form N-8A/A of registration (the "1940 Act Notification") of the Fund as an investment company under the Investment Company Act of 1940, as amended (the "1940 Act"), and the rules and regulations of the Commission under the 1933 Act (the "1933 Act Regulations") and the 1940 Act (the "1940 Act Regulations" and, together with the 1933 Act Regulations, the "Rules and Regulations"). Such registration statement including the exhibits thereto and schedules thereto and the amendments thereto, is herein called the "Registration Statement." Pre-effective amendment No. 1 to the Registration Statement, filed on August 22, 2017 (the registration statement at the time pre-effective amendment No. 1 became effective, the "Original Registration Statement"), is effective. The prospectus (including any statement of additional information incorporated by reference therein) contained in the Original Registration Statement

at the time it became effective is called the "Basic Prospectus." The Basic Prospectus, together with any preliminary prospectus supplement (including any statement of additional information incorporated by reference therein) in the form first furnished to the Underwriters for use in connection with the offering of the Shares and used prior to the filing of the Prospectus (as defined below) is herein called the "Preliminary Prospectus." Promptly after execution and delivery of this Agreement, the Fund will prepare and file a prospectus in accordance with the provisions of Rule 430B ("Rule 430B") and Rule 497 ("Rule 497") of the 1933 Act Regulations. The information included in any such prospectus that was omitted from the Original Registration Statement at the time it became effective but that is deemed to be part of and included in such registration statement pursuant to Rule 430B is referred to as "Rule 430B Information." The Basic Prospectus, together with the final prospectus supplement, including any statement of additional information incorporated by reference therein in the form furnished to the Underwriters for use in connection with the offering of the Shares is herein called the "Prospectus." For purposes of this Agreement, all references to the Original Registration Statement, any Preliminary Prospectus or the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").

All references in this Agreement to financial statements and schedules and other information which is "contained," "included" or "stated" in the Registration Statement, any Preliminary Prospectus or the Prospectus (or other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information which is incorporated by reference in or otherwise deemed by the 1933 Act Regulations to be a part of or included in the Registration Statement, any Preliminary Prospectus or the Prospectus, as the case may be; and all references in this Agreement to amendments or supplements to the Registration Statement, any Preliminary Prospectus or the Prospectus shall be deemed to mean and include the filing of any document under the Securities Exchange Act of 1934, as amended (the "1934 Act") which is incorporated by reference in or otherwise deemed by 1933 Act Regulations to be a part of or included in the Registration Statement, such Preliminary Prospectus or the Prospectus, as the case may be.

All references in this Agreement to a "Business Day" means a day (a) other than a day on which commercial banks in The City of New York, New York are required or authorized by law or executive order to close and (b) on which the NYSE American LLC ("NYSE American") is not closed.

Section 1. Representations and Warranties.

(a) **Representations and Warranties by the Fund and the Adviser**. The Fund and the Adviser, jointly and severally, represent and warrant to each Underwriter as of the date hereof, as of the Applicable Time (as defined below) and as of the Closing Time referred to in Section 2(b) hereof, and agree with each Underwriter, as follows:

(i) Compliance With Registration Requirements. The Original Registration Statement became effective under the 1933 Act on August 31, 2017 and no stop order suspending the effectiveness of the Original Registration Statement has been issued under the 1933 Act, or order of suspension or revocation of registration pursuant to Section 8(e) of the 1940 Act, and no proceedings for any such purpose have been instituted or are pending or, to the knowledge of the Fund or the Adviser, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with.

At the respective times the Original Registration Statement and any amendment thereto (filed before the Closing Time) became effective under the 1933 Act, at each deemed effective

date with respect to the Underwriters pursuant to Rule 430B(f)(2) of the 1933 Act Regulations and at the Closing Time, as hereinafter defined, the Original Registration Statement, the notification on Form N-8A and any amendments and supplements thereto complied and will comply in all material respects with the requirements of the 1933 Act, the 1940 Act and the Rules and Regulations and did not and will not contain an untrue statement of a material fact or, except for the information included in the prospectus supplement relating to the Shares contained in the Prospectus, omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. Neither the Prospectus nor any amendment or supplement thereto, at the time the Prospectus or any such amendment or supplement was issued and at the Closing Time, included or will include an untrue statement of a material fact or omitted or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, except that the representations and warranties set forth in this paragraph do not apply to statements in or omissions from the Registration Statement, the Original Registration Statement, any Preliminary Prospectus or the Prospectus made in reliance upon and in conformity with information furnished in writing to the Fund or the Adviser by or on behalf of any Underwriter for use therein.

As of the Applicable Time (as defined below), (i) any Rule 482 Statement (as defined below) issued at or prior to the Applicable Time, if any, and (ii) the Preliminary Prospectus and the information included on Schedule C hereto, all considered together (collectively, the "General Disclosure Package"), did not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

As used in this subsection and elsewhere in this Agreement:

"*Applicable Time*" means 3:15 P.M. (Eastern time) on September 13, 2017 or such other time as agreed by the Fund and the Representative.

"*Rule 482 Statement*" means a document that contains the number of Shares issued, the offering price and other items dependent upon the offering price, prepared in accordance with the provisions of Rule 482 of the 1933 Act, a copy of which shall be attached as Schedule D hereto.

Each Preliminary Prospectus complied as to form when so filed in all material respects with the Rules and Regulations and each Preliminary Prospectus and the Prospectus delivered to the Underwriters for use in connection with this offering was identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(ii) Incorporation of Documents by Reference. The documents incorporated or deemed to be incorporated by reference in the Registration Statement, the Original Registration Statement, any Preliminary Prospectus and the Prospectus, when they became effective or at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations or the 1934 Act and the rules and regulations of the Commission under the 1934 Act (the "1934 Act Regulations") or the 1940 Act and the 1940 Act Regulations, as applicable, and, when read together with the other information in the Prospectus, (A) at the time the Original Registration Statement became effective, (B) at the earlier of the time the Prospectus was first used and the date and time of the first contract of sale of Shares in this offering and (C) at the Closing Time, did not and will not

contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(iii) Independent Accountants. The accountants who certified the financial statements and supporting schedules included in the Registration Statement have confirmed to the Fund their status as independent public accountants as required by the 1933 Act and the 1933 Act Regulations.

(iv) Financial Statements. The financial statements included in the Original Registration Statement, the Preliminary Prospectus and the Prospectus, together with the related schedules and notes, present fairly in accordance with generally accepted accounting principles ("GAAP") in all material respects the investments and assets and liabilities of the Fund at the dates indicated and the statement of operations, changes in net assets, cash flows and financial highlights of the Fund for the periods specified; said financial statements have been prepared in conformity with GAAP. The supporting schedules, if any, present fairly in accordance with GAAP the information required to be stated therein. The selected financial data and the summary financial information included in the Prospectus present fairly the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included in the Registration Statement.

(v) No Material Adverse Change. Since the respective dates as of which information is given in the Original Registration Statement, the Preliminary Prospectus or the Prospectus, except as otherwise stated therein, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Fund, whether or not arising in the ordinary course of business (a "Material Adverse Effect"), (B) there have been no transactions entered into by the Fund, other than those in the ordinary course of business, which are material with respect to the Fund and (C) there has been no dividend or distribution of any kind declared, paid or made by the Fund on any class of its shares of beneficial interest, in each case, other than as disclosed in or contemplated by the Original Registration Statement, the Preliminary Prospectus or the Prospectus.

(vi) Good Standing of the Fund. The Fund has been duly organized and is validly existing as a statutory trust in good standing under the laws of the State of Delaware and has the trust power and authority to own, lease and operate its properties and to conduct its business as described in the Original Registration Statement, the Preliminary Prospectus and the Prospectus and to enter into and perform its obligations under this Agreement; and the Fund is duly qualified as a foreign trust to transact business and is in good standing in each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure so to qualify or to be in good standing would not result, individually or in the aggregate, in a Material Adverse Effect.

(vii) No Subsidiaries. The Fund has no subsidiaries.

(viii) Investment Company Status. The Fund is duly registered with the Commission under the 1940 Act as a diversified, closed-end management investment company, and no order of suspension or revocation of such registration has been issued or proceedings therefor initiated or, to the Fund's knowledge, threatened by the Commission.

(ix) Officers and Trustees. No person is serving or acting as an officer, trustee or investment adviser of the Fund except in accordance with the provisions of the 1940 Act and the

1940 Act Regulations and the Investment Advisers Act of 1940, as amended (the "Advisers Act"), and the rules and regulations of the Commission promulgated under the Advisers Act (the "Advisers Act Rules and Regulations"). Except as disclosed in the Original Registration Statement, the Preliminary Prospectus and the Prospectus, to the Fund's knowledge after due inquiry, no trustee of the Fund is an "Interested Person" (as defined in the 1940 Act) of the Fund or an "Affiliated Person" (as defined in the 1940 Act) of any Underwriter listed in Schedule A hereto. For purposes of the second sentence of this Section, the Fund is entitled to rely on representations from such trustees.

(x) Capitalization. The authorized, issued and outstanding shares of beneficial interest of the Fund is as set forth in the Preliminary Prospectus and the Prospectus as of the date thereof. All issued and outstanding common shares of beneficial interest, par value $0.01 per share, of the Fund (the "Common Shares") have been duly authorized and validly issued and are fully paid and non-assessable. None of the outstanding Common Shares of the Fund were issued in violation of the preemptive or other similar rights of any securityholder of the Fund.

(xi) Authorization of Agreement. This Agreement has been duly authorized and executed and will be delivered by the Fund.

(xii) Authorization and Description of Shares. The Shares to be purchased by the Underwriters from the Fund have been duly authorized for issuance and sale to the Underwriters pursuant to this Agreement and, when issued and delivered by the Fund pursuant to this Agreement against payment of the consideration set forth herein, will be validly issued, fully paid and non-assessable. The Shares conform to all statements relating thereto contained in the Basic Prospectus, Preliminary Prospectus and the Prospectus and such description conforms in all material respects to the rights set forth in the instruments defining the same; and the issuance of the Shares is not subject to the preemptive or other similar rights of any securityholder of the Fund.

(xiii) Absence of Defaults and Conflicts. The Fund is not in violation of the Statement or by-laws, each as amended or supplemented to date, or in default in the performance or observance of any obligation, agreement, covenant or condition contained in any material contract, indenture, mortgage, deed of trust, loan or credit agreement, note, lease or other agreement or instrument to which the Fund is a party or by which it may be bound, or to which any of the property or assets of the Fund is subject (collectively, "Agreements and Instruments") except for such violations or defaults (A) that do not involve Offering Agreements (as defined below) and (B) that would not, individually or in the aggregate, result in a Material Adverse Effect; and the execution, delivery and performance of this Agreement, the Investment Advisory Agreement dated as of November 1, 2015 between the Fund and the Adviser, the Amended and Restated Master Custodian Agreement dated as of July 2, 2001 between the Fund, by amended appendix, and State Street Bank & Trust Company and the Registrar, Transfer Agency and Service Agreement dated as of January 3, 2002 between the Fund and American Stock Transfer & Trust Company, LLC, referred to in the Registration Statement (as used herein, individually the "Investment Advisory Agreement," the "Custody Agreement," and the "Transfer Agency Agreement," respectively and collectively the "Offering Agreements") and the consummation of the transactions contemplated in the Offering Agreements and in the Registration Statement (including the issuance and sale of the Shares and the use of the proceeds from the sale of the Shares as described in the Preliminary Prospectus and the Prospectus under the caption "Use of Proceeds") and compliance by the Fund with its obligations thereunder have been duly authorized by all necessary trust action and do not and will not, whether with or without the giving of notice

or passage of time or both, conflict with or constitute a breach of, or default or Repayment Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Fund pursuant to, the Agreements and Instruments (except for such conflicts, breaches, defaults or liens, charges or encumbrances that would not, individually or in the aggregate, result in a Material Adverse Effect), nor will such action result in (i) any violation of the provisions of the Statement or by-laws of the Fund or (ii) any applicable law, statute, rule, regulation, judgment, order, writ or decree of any government, government instrumentality or court, domestic or foreign, having jurisdiction over the Fund or any of its assets, properties or operations, except with respect to (ii) only for such violations that would not, individually or in the aggregate, result in a Material Adverse Effect. As used herein, a "Repayment Event" means any event or condition which gives the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Fund.

(xiv) Absence of Proceedings. There is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Fund or the Adviser, as the case may be, threatened, against or affecting the Fund, which is required to be disclosed in the Registration Statement, the Original Registration Statement, the Preliminary Prospectus or the Prospectus (other than as disclosed therein), or which might reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, or which might reasonably be expected to materially and adversely affect the properties or assets of the Fund or the consummation of the transactions contemplated in this Agreement or the performance by the Fund of its obligations hereunder. The aggregate of all pending legal or governmental proceedings to which the Fund is a party or of which any of its property or assets is the subject which are not described in the Registration Statement, Original Registration Statement, Preliminary Prospectus and Prospectus including ordinary routine litigation incidental to the business, could not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect.

(xv) Accuracy of Exhibits. There are no contracts or documents which are required to be described in the Registration Statement, the Original Registration Statement, the Preliminary Prospectus or the Prospectus (or the documents incorporated by reference therein) or to be filed as exhibits thereto which have not been so described and filed as required by the 1933 Act, the 1940 Act or by the Rules and Regulations.

(xvi) Absence of Manipulation. The Fund has not taken, and the Fund will not take (other than as contemplated in its dividend reinvestment plan or share repurchase plan), directly or indirectly, any action which is designed to or which has constituted or which would be expected to cause or result in manipulation of the price of any security of the Fund or to stabilize in connection with the offering of the Shares, except to the extent authorized by applicable law, including without limitation by Rule 104 of Regulation M ("Reg M") under the 1934 Act.

(xvii) Possession of Intellectual Property; Fund Name. The Fund owns or possesses, or can acquire on reasonable terms, adequate licenses, copyrights, know-how (including trade secrets or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property (collectively, "Intellectual Property") necessary to carry on the business now operated by the Fund, except where failure to do so would not have a Material Adverse Effect, and the Fund has not received any notice or is not otherwise aware of any infringement of or conflict with asserted rights of others with respect to any Intellectual Property

or of any facts or circumstances which would render any Intellectual Property invalid or inadequate to protect the interest of the Fund therein.

(xviii) Absence of Further Requirements. No filing with, or authorization, approval, consent, license, order, registration, qualification or decree of, any court or governmental authority or agency is necessary or required for the performance by the Fund of its obligations hereunder, in connection with the offering, issuance or sale of the Shares hereunder or the consummation of the transactions contemplated by this Agreement, except such as have been already obtained or as may be required under the 1933 Act, the 1940 Act, the 1934 Act, the Rules and Regulations, or under the rules of the NYSE American or the filing requirements and rules of the Financial Industry Regulatory Authority (the "FINRA") or state securities laws.

(xix) Possession of Licenses and Permits. The Fund possesses such permits, licenses, approvals, consents, exemptive orders and other authorizations (collectively, "Governmental Licenses") issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to operate its properties and to conduct the business as contemplated in the Prospectus, except where failure to so possess would not, individually or in the aggregate, result in a Material Adverse Effect. The Fund is in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, individually or in the aggregate, have a Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, individually or in the aggregate, have a Material Adverse Effect. The Fund has not received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in a Material Adverse Effect.

(xx) Advertisements. Any advertising, sales literature or other promotional material (including "prospectus wrappers," "broker kits," "road show slides" and "road show scripts" and "electronic road show presentations") authorized in writing by or prepared by the Fund or the Adviser used in connection with the public offering of the Shares (collectively, "Sales Material") does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. Moreover, all Sales Material complied and will comply in all material respects with the applicable requirements of the 1933 Act, the 1940 Act, the Rules and Regulations and the rules and interpretations of the FINRA (except that this representation and warranty does not apply to statements in or omissions from the Sales Material made in reliance upon and in conformity with written information relating to the Underwriters furnished to the Fund or the Adviser on behalf of the Underwriters by the Representative expressly for use therein), including any requirement to file any Rule 482 Statement.

(xxi) Subchapter M. The Fund intends to direct the investment of the proceeds of the offering described in the Registration Statement in such a manner as to comply with the requirements of Subchapter M of the Internal Revenue Code of 1986, as amended ("Subchapter M of the Code" and the "Code," respectively), and, at all times since its inception, has qualified as a regulated investment company under Subchapter M of the Code.

(xxii) Distribution of Offering Materials. The Fund has not distributed and, prior to the later to occur of (A) the Closing Time and (B) completion of the distribution of the Shares, will not distribute any offering material to the public in connection with the offering and sale of the

Shares other than the Registration Statement, the Original Registration Statement, the Preliminary Prospectus, the Rule 482 Statement, the Prospectus, or other materials, if any, permitted by the 1933 Act or the 1940 Act or the Rules and Regulations.

(xxiii) Accounting Controls and Disclosure Controls. The Fund maintains a system of internal accounting controls sufficient to provide reasonable assurances that (A) transactions are executed in accordance with management's general or specific authorization and with the applicable requirements of the 1940 Act and the 1940 Act Regulations; (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets and to maintain compliance with the books and records requirements under the 1940 Act and the 1940 Act Regulations; (C) access to Fund assets is permitted only in accordance with management's general or specific authorization; and (D) the recorded accountability for Fund assets is compared with the existing Fund assets at reasonable intervals and action deemed appropriate by the Fund is taken with respect to any differences. The Fund has disclosure controls and procedures (as such term is defined in Rule 30a-3 under the 1940 Act) that are designed to ensure that information required to be disclosed by the Fund in the reports that it files or submits under the 1940 Act is recorded, processed, summarized and reported, within the time periods specified in the rules and forms of the Commission, including, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Fund in the reports that it files or submits under the 1940 Act is accumulated and communicated to the Fund's management, including its principal executive officer or officers and its principal financial officer or officers, as appropriate, to allow timely decisions regarding required disclosure. Except as described in the Preliminary Prospectus and the Prospectus, since the end of the Fund's most recent audited fiscal year, there has been (I) no material weakness in the Fund's internal control over financial reporting (whether or not remediated) and (II) no change in the Fund's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Fund's internal control over financial reporting.

(xxiv) Pending Proceedings and Examinations. The Registration Statement is not the subject of a pending proceeding or examination under Section 8(d) or 8(e) of the 1933 Act, and the Fund is not the subject of a pending proceeding under Section 8A of the 1933 Act in connection with the offering of the Shares.

(xxv) Absence of Undisclosed Payments. Neither the Fund nor, to the Fund's knowledge, any employee or agent of the Fund, has made any payment of funds of the Fund or received or retained any funds, which payment, receipt or retention of funds is of a character required to be disclosed in the Original Registration Statement, the Basic Prospectus, Preliminary Prospectus or Prospectus and which payment has not been so disclosed.

(xxvi) Material Agreements. The Offering Agreements have each been duly authorized by all requisite action on the part of the Fund and executed and delivered by the Fund, as of the dates noted therein, and each complies with applicable provisions of the 1940 Act in all material respects. Assuming due authorization, execution and delivery by the other parties thereto with respect to this Agreement and the Offering Agreements, each Offering Agreement constitutes a valid and binding agreement of the Fund, enforceable in accordance with its terms, except as affected by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, and by general equitable principles (whether considered in a proceeding in equity or at law) and an implied covenant of good faith and fair dealing and except as rights to indemnification or contribution thereunder may be limited by equitable principles of general applicability or by federal or state laws.

(xxvii) Registration Rights. There are no persons with registration rights or other similar rights to have any securities of the Fund registered pursuant to the Registration Statement or otherwise registered by the Fund under the 1933 Act.

(xxviii) NYSE American Listing. The Fund's Common Shares are duly listed on the NYSE American.

(xxix) Investment Restrictions. There are no material restrictions, limitations or regulations with respect to the ability of the Fund to invest its assets as described in the Registration Statement, Preliminary Prospectus and Prospectus, other than as described therein.

(xxx) Ratings. The Shares have been, or prior to the Closing Time will be, assigned a rating of " " by Moody's Investors Service, Inc.

(xxxi) Payment of Taxes. All United States federal income tax returns of the Fund required by law to be filed have been filed and all taxes shown by such returns or otherwise assessed, which are due and payable, have been paid, except assessments that are being contested in good faith and as to which adequate reserves have been provided. The Fund has filed all other tax returns that are required to have been filed by it pursuant to applicable foreign, state, local or other law except insofar as the failure to file such returns would not, individually or in the aggregate, result in a Material Adverse Effect, and has paid all taxes due pursuant to such returns or pursuant to any assessment received by the Fund, except for such taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided. The charges, accruals and reserves on the books of the Fund in respect of any income and corporation tax liability for any years not finally determined are adequate to meet any assessments or re-assessments for additional tax for any years not finally determined, except to the extent of any inadequacy that would not, individually or in the aggregate, result in a Material Adverse Effect. All material taxes which the Fund is required by law to withhold or to collect for payment have been duly withheld and collected and have been paid to the appropriate governmental authority or agency or have been accrued, reserved against and entered on the books of the Fund.

(xxxii) Insurance. The Fund carries or is entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as are generally maintained by companies of established repute engaged in the same or similar business, and all such insurance is in full force and effect. The Fund has no reason to believe that it will not be able to (A) renew its existing insurance coverage as and when such policies expire or (B) obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not, individually or in the aggregate, result in a Material Adverse Effect.

(xxxiii) Statistical and Market-Related Data**.** Any statistical and market-related data included in the Original Registration Statement, the Basic Prospectus, the Preliminary Prospectus and the Prospectus are based on or derived from sources that the Fund believes to be reliable and accurate, and the Fund has obtained written consent to the use of such data from such sources.

(xxxiv) Tax Treatment of the Preferred Shares. For United States federal income tax purposes, the Shares will constitute equity of the Fund.

(xxxv) Foreign Corrupt Practices Act. Neither the Fund nor, to the knowledge of the Fund, any trustee, officer, agent, employee or affiliate of the Fund is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (collectively, the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA, and the Fund and, to the knowledge of the Fund, its affiliates have conducted their businesses in compliance with the FCPA and to the extent required by applicable law have instituted and maintain policies and procedures reasonably designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xxxvi) Money Laundering Laws. The operations of the Fund are and have been conducted at all times in compliance in all material respects with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and such other U.S. anti-money laundering or similar U.S. laws applicable to the Fund, including any rules or regulations, issued, administered or enforced by any U.S. governmental agency (collectively, "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Fund with respect to the Money Laundering Laws is pending or, to the knowledge of the Fund, threatened.

(xxxvii) OFAC. Neither the Fund nor, to the knowledge of the Fund, any trustee, director, officer, agent, employee, affiliate or person acting on behalf of the Fund is currently the subject or target of any sanctions administered or enforced by the United States Government, including, without limitation, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, "Sanctions"); and the Fund will not use any of the proceeds received by the Fund from the sale of the Shares, or lend, contribute or otherwise make available such proceeds to any subsidiaries, joint venture partners or other person, to fund any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions.

(xxxviii) Compliance with the Sarbanes Oxley Act. There is and has been no failure on the part of the Fund or any of the Fund's trustees or officers, in their capacities as such, to comply in all material respects with the applicable provisions of the Sarbanes Oxley Act of 2002 and the rules and regulations promulgated in connection therewith.

(b) **Representations and Warranties by the Adviser.** The Adviser represents and warrants to each Underwriter as of the date hereof, as of the Applicable Time and as of the Closing Time referred to in Section 2(b) hereof, as follows:

(i) Good Standing of the Adviser. The Adviser has been duly organized and is validly existing and in good standing as a limited liability company under the laws of the State of New

York with full limited liability company power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, Original Registration Statement, Preliminary Prospectus and the Prospectus and is duly qualified as a foreign entity to transact business and is in good standing in each other jurisdiction in which such qualification is required except where the failure so to register or to qualify would not, individually or in the aggregate, have a material adverse effect on the Adviser's ability to provide services to the Fund under the Investment Advisory Agreement or on the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Adviser, whether or not arising in the ordinary course of business (an "Adviser Material Adverse Effect").

(ii) Investment Adviser Status. The Adviser is duly registered and in good standing with the Commission as an investment adviser under the Advisers Act, and is not prohibited by the Advisers Act, the Adviser Act Rules and Regulations, the 1940 Act, or the 1940 Act Regulations, from acting under the Investment Advisory Agreement for the Fund as contemplated by the Prospectus.

(iii) Description of Adviser. The description of the Adviser in the Registration Statement, the Original Registration Statement, the Preliminary Prospectus and the Prospectus (including any amendment or supplement thereto) complied and comply in all material respects with the applicable provisions of the 1933 Act, the 1940 Act, the Advisers Act, the Rules and Regulations and the Advisers Act Rules and Regulations and is true and correct in all material respects and does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

(iv) Capitalization. The Adviser has the financial resources available to it necessary for the performance of its services and obligations as contemplated in the Preliminary Prospectus, the Prospectus and in the Investment Advisory Agreement.

(v) Authorization of Offering Agreements; Absence of Defaults and Conflicts. This Agreement and the Investment Advisory Agreement have each been duly authorized and executed, and in the case of the Investment Advisory Agreement, delivered by the Adviser, and the Investment Advisory Agreement constitutes, and the Agreement when executed and delivered (assuming the due execution and delivery by the Underwriters) will constitute, a valid and binding obligation of the Adviser, enforceable in accordance with its terms, except as affected by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally and general equitable principles (whether considered in a proceeding in equity or at law) or an implied covenant of good faith and fair dealing and except as rights to indemnification or contribution thereunder may be limited by equitable principles of general applicability or by federal or state laws; and neither the execution and delivery of this Agreement or the Investment Advisory Agreement nor the performance by the Adviser of its obligations hereunder or thereunder will conflict with, or result in a breach of any of the terms and provisions of, or constitute, with or without the giving of notice or lapse of time or both, a default under, (A) any agreement or instrument to which the Adviser is a party or by which it is bound, (B) the limited liability company agreement and other organizational documents of the Adviser, or (C) to the Adviser's knowledge, any law, order, decree, rule or regulation applicable to it of any jurisdiction, court, federal or state regulatory body, administrative agency or other governmental body, stock exchange or securities association having jurisdiction over the Adviser or its respective properties or operations other than any conflict, breach or default that would not, individually or in the aggregate, reasonably be expected

to result in an Adviser Material Adverse Effect; and no consent, approval, authorization or order of any court or governmental authority or agency is required for the consummation by the Adviser of the transactions contemplated by this Agreement or the Investment Advisory Agreement, except (A) as have been obtained or will be obtained prior to the Closing Time or may be required under the 1933 Act, the 1940 Act, the 1934 Act, the Advisers Act or state and foreign securities or "blue sky" laws, (B) may be required by the NYSE American, the FINRA or any other applicable self-regulatory organization and securities depository, or (C) such as which the failure to obtain would not have an Adviser Material Adverse Effect or a Material Adverse Effect or impede the ability of the Adviser to perform its obligations under this Agreement.

(vi) No Material Adverse Change. Since the respective dates as of which information is given in the Registration Statement, the Original Registration Statement, the Preliminary Prospectus and the Prospectus, except as otherwise stated therein, there has not occurred any event which should reasonably be expected to have an Adviser Material Adverse Effect.

(vii) Absence of Proceedings. There is no action, suit, proceeding, inquiry or investigation before or brought by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Adviser, threatened against or affecting the Adviser or any parent or subsidiary of the Adviser or any partners, directors, officers or employees of the foregoing, whether or not arising in the ordinary course of business, which might reasonably be expected to result, individually or in the aggregate, in an Adviser Material Adverse Effect, or materially and adversely affect the ability of the Adviser to perform its obligations under this Agreement, or which is required to be disclosed in the Original Registration Statement, Basic Prospectus, Preliminary Prospectus and the Prospectus that has not been disclosed.

(viii) Absence of Violation or Default. The Adviser is not in violation of its limited liability company agreement or other organizational documents or in default under any agreement, indenture or instrument, except for such violations or defaults that would not reasonably be expected to result, individually or in the aggregate, in an Adviser Material Adverse Effect.

(ix) Money Laundering Laws. The operations of the Adviser and its subsidiaries are and have been conducted at all times in compliance in all material respects with applicable Money Laundering Laws and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Adviser or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Adviser, threatened.

(x) Foreign Corrupt Practices Act. Neither the Adviser nor any of its subsidiaries nor, to the knowledge of the Adviser, any director, officer, agent, employee or affiliate of the Adviser or any of its subsidiaries is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the FCPA, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA, and the Adviser, its subsidiaries and, to the knowledge of the Adviser, its affiliates have conducted their businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(xi) OFAC. Neither the Adviser or any of its subsidiaries nor, to the knowledge of the Adviser, any director, officer, agent, employee or person acting on behalf of the Adviser is currently the subject or target of any Sanctions.

(xii) Possession of Licenses and Permits. The Adviser possesses such Governmental Licenses issued by the appropriate federal, state, local or foreign regulatory agencies or bodies necessary to operate its properties and to conduct the business as contemplated in the Prospectus, except where failure so to possess would not, individually or in the aggregate, result in an Adviser Material Adverse Effect. The Adviser is in compliance with the terms and conditions of all such Governmental Licenses, except where the failure so to comply would not, individually or in the aggregate, have an Adviser Material Adverse Effect. All of the Governmental Licenses are valid and in full force and effect, except when the invalidity of such Governmental Licenses or the failure of such Governmental Licenses to be in full force and effect would not, individually or in the aggregate, have an Adviser Material Adverse Effect. The Adviser has not received any notice of proceedings relating to the revocation or modification of any such Governmental Licenses which, individually or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would reasonably be expected to result in an Adviser Material Adverse Effect.

(xiii) Insurance. The Adviser carries or is entitled to the benefits of insurance, with financially sound and reputable insurers, in such amounts and covering such risks as are generally maintained by companies of established repute engaged in the same or similar business, and all such insurance is in full force and effect. The Adviser has no reason to believe that it will not be able to (A) renew its existing insurance coverage as and when such policies expire or (B) obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not, individually or in the aggregate, result in an Adviser Material Adverse Effect.

(xiv) Absence of Manipulation. The Adviser has not taken, and the Adviser will not take (other than as contemplated in the Fund's dividend reinvestment plan or share repurchase plan), directly or indirectly, any action which is designed to or which has constituted or which would be expected to cause or result in manipulation of the price of any security of the Fund, or to stabilize, in connection with the offering of the Shares, except to the extent authorized by applicable law, including without limitation by Rule 104 of Reg M under the 1934 Act.

(c) **Officer's Certificates**. Any certificate signed by any officer of the Fund or the Adviser delivered to the Underwriters or to counsel for the Underwriters shall be deemed a representation and warranty by the Fund or the Adviser, as the case may be, to the Underwriter as to the matters covered thereby.

Section 2. Sale and Delivery To Underwriters; Closing.

(a) **Shares**. On the basis of the representations and warranties contained herein and subject to the terms and conditions set forth herein, the Fund agrees to sell to each Underwriter, and each Underwriter, severally and not jointly, agrees to purchase from the Fund, at the price per share set forth in Schedule B, the number of Shares set forth in Schedule A opposite the name of such Underwriter, plus any additional number of Shares which such Underwriter may become obligated to purchase pursuant to the provisions of Section 10 hereof.

(b) **Payment**. Payment of the purchase price for, and delivery in electronic form of the Shares shall be made at the offices of Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017 or at such other place as shall be agreed upon by the Representative and the Fund, at 10:00 A.M. (Eastern time) on the third Business Day after the date hereof (unless postponed in accordance with the provisions of Section 10), or such other time not later than ten Business Days after such date as shall be agreed upon by the Representative and the Fund (such time and date of payment and delivery being herein called "Closing Time").

Payment shall be made to the Fund by wire transfer of immediately available funds to a bank account designated by the Fund, against delivery to the Representative for the respective accounts of the Underwriters of the Shares, in electronic book entry form, to be purchased by them. It is understood that each Underwriter has authorized the Representative, for its account, to accept delivery of, receipt for, and make payment of the purchase price for, the Shares which it has agreed to purchase. MS, individually and not as representative of the Underwriters, may (but shall not be obligated to) make payment

of the purchase price for the Shares to be purchased by any Underwriter whose funds have not been received by the Closing Time, but such payment shall not relieve such Underwriter from its obligations hereunder. The Shares to be purchased hereunder shall be delivered to you at the Closing Time through the facilities of the Depository Trust Company or another mutually agreeable facility, against payment of the purchase price therefor in immediately available funds to the order of the Fund.

Section 3. Covenants.

(a) The Fund and Adviser, jointly and severally, covenant with each Underwriter as follows:

(i) Compliance With Securities Regulations and Commission Requests. The Fund, subject to Section 3(a)(ii), will comply with the applicable requirements of Rule 430B of the 1933 Act Regulations and will notify the Representative as soon as practicable, and confirm the notice in writing, (A) when any post-effective amendment to the Registration Statement shall become effective, or any supplement to the Prospectus, the Preliminary Prospectus or any amended Prospectus shall have been filed, (B) of the receipt of any comments from the Commission, (C) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus (or any document incorporated by reference therein

or otherwise deemed to be a part thereof) or for additional information, (D) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of any order preventing or suspending the use of any Preliminary Prospectus, or of the suspension of the qualification of the Shares for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes, and (E) if the Fund becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Shares. The Fund will effect the filings necessary under Rule 497 of the 1933 Act Regulations in the manner and within the time period required by Rule 497 of the 1933 Act Regulations and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 497 was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Fund will make every reasonable effort to prevent the issuance of any stop order and, if any stop order or order of suspension or revocation of registration pursuant to Section 8(e) of the 1940 Act is issued, to obtain the lifting thereof at the earliest possible moment.

(ii) Filing of Amendments and Exchange Act Documents. So long as this Agreement remains in effect, the Fund will give the Representative notice of its intention to file or prepare any amendment to the Registration Statement or any amendment, supplement or revision to either any Preliminary Prospectus (including any prospectus included in the Original Registration Statement or any amendment thereto at the time it became effective) or to the Prospectus, and will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file or use any such documents to which the Representative or counsel for the Underwriters shall reasonably object. The Fund has given the Representative notice of any filings made pursuant to the 1934 Act or the 1934 Act Regulations within 48 hours prior to the Applicable Time; the Fund will give the Representative notice of its intention to make any such filing from the Applicable Time to the Closing Time and will furnish the Representative with copies of any such documents a reasonable amount of time prior to such proposed filing and will not, unless required by law, file or use any such document to which the Representative or counsel for the Underwriters shall object; provided, however that this covenant shall not apply to any post-effective amendment required by Rule 8b-16 of the 1940 Act which is filed with the Commission after the later of (x) one year from the date of this Agreement or (y) the date on which the distribution of the Shares is completed.

(iii) Delivery of Registration Statements. The Fund has furnished or will deliver to the Representative and counsel for the Underwriters, without charge, copies of the Original Registration Statement and of each amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated by reference therein) and copies of all consents and certificates of experts, and will also deliver to the Representative, without charge, a conformed copy of the Original Registration Statement and, for so long as this Agreement remains in effect, of each amendment thereto (without exhibits) for each of the Underwriters. The copies of the Original Registration Statement and each amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(iv) Delivery of Prospectuses. The Fund has delivered to each Underwriter, without charge, as many copies of each Preliminary Prospectus as such Underwriter reasonably requested, and the Fund hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Fund will furnish to each Underwriter, without charge, during the period when a prospectus is required to be delivered under the 1933 Act, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. The Prospectus and any

amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(v) Continued Compliance With Securities Laws. The Fund will comply with the 1933 Act, the 1933 Act Regulations, the 1934 Act, the 1934 Act Regulations, the 1940 Act and the 1940 Act Regulations so as to permit the completion of the distribution of the Shares as contemplated in this Agreement and in the Prospectus. If at any time when a prospectus is required by the 1933 Act to be delivered in connection with sales of the Shares, any event shall occur or condition shall exist as a result of which it is necessary, in the reasonable opinion of counsel for the Underwriters or for the Fund, to amend the Registration Statement or amend or supplement the Prospectus in order that the Prospectus will not include any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, in the opinion of such counsel, at any such time to amend the Registration Statement or amend or supplement the Prospectus in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations, the Fund will promptly prepare and file with the Commission, subject to Section 3(a)(ii), such amendment or supplement as may be necessary to correct such statement or omission or to comply with such requirements, and the Fund will furnish to the Underwriter such number of copies of such amendment or supplement as the Underwriter may reasonably request. If at any time following issuance of a Rule 482 Statement, there occurred or occurs an event or development as a result of which such Rule 482 Statement included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in light of the circumstances, prevailing at that subsequent time, not misleading, the Fund will promptly notify the Representative and will promptly amend or supplement, at its own expense, such Rule 482 Statement to eliminate or correct such untrue statement or omission.

(vi) Blue Sky Qualifications. The Fund will use its best efforts, in cooperation with the Underwriters, to qualify the Shares for offering and sale under the applicable securities laws of such states and other jurisdictions of the United States as the Representative may designate and to maintain such qualifications in effect so long as required for the distribution of the Shares; provided, however, that the Fund shall not be obligated to file any general consent to service of process or to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject.

(vii) Rule 158. The Fund will timely file such reports pursuant to the 1934 Act or 1940 Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement for the purposes of, and to provide to the Underwriter the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(viii) Use of Proceeds. The Fund will use the net proceeds received by it from the sale of the Shares in the manner specified in the Preliminary Prospectus and the Prospectus under “Use of Proceeds.”

(ix) Listing. The Fund will use its best efforts to effect the listing of the Shares on the NYSE American, subject to notice of issuance.

(x) Restriction on Sale of Shares. During a period of 90 days from the date of the Prospectus, the Fund will not, without the prior written consent of MS, directly or indirectly, offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or lend or otherwise transfer or dispose of preferred shares or any securities convertible into or exercisable or exchangeable for preferred shares or file any registration statement under the 1933 Act with respect to any of the foregoing, whether any such transaction described above is to be settled by delivery of preferred shares or such other securities, in cash or otherwise. The foregoing sentence shall not apply to the Shares to be sold hereunder or the preferred shares issued pursuant to any dividend reinvestment plan.

(xi) Reporting Requirements. The Fund, during the period when the Prospectus is required to be delivered under the 1933 Act or the 1934 Act, will file all documents required to be filed with the Commission pursuant to the 1940 Act and the 1934 Act within the time periods required by the 1940 Act, the 1940 Act Regulations and the 1934 Act Regulations, respectively.

(xii) No Manipulation of Market for Shares. Except for the authorization of actions permitted to be taken by the Underwriters as contemplated herein, in the Preliminary Prospectus or in the Prospectus, the Fund will not (A) take, directly or indirectly, any action designed to cause or to result in, or that might reasonably be expected to constitute, the manipulation of the price of any security of the Fund or to stabilize in connection with the offering of the Shares, except to the extent authorized by applicable law, including without limitation by Rule 104 of Reg M under the 1934 Act, and (B) until the Closing Time, (i) sell, bid for or purchase the Shares or pay any person any compensation for soliciting purchases of the Shares or (ii) pay or agree to pay to any person any compensation for soliciting another to purchase any other securities of the Fund. It is acknowledged and agreed that nothing in this subsection shall prohibit the operation of the Fund's dividend reinvestment plan or share repurchase plan.

Section 4. Payment of Expenses.

(a) **Expenses.** The Fund will pay all expenses incident to the performance of its obligations under this Agreement, including (i) the preparation, printing and filing of the Registration Statement (including financial statements and exhibits) as originally filed and of each amendment thereto, (ii) the preparation, issuance and delivery of the Shares to the Underwriters, including any stock or other transfer taxes and any stamp or other duties payable upon the sale, issuance or delivery of the Shares to the Underwriters, (iii) the fees and disbursements of the Fund's counsel, accountants and other advisers, (iv) the qualification of the Shares under securities laws in accordance with the provisions of Section 3(vi) hereof, including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (v) the printing and delivery to the Underwriters of copies of each Preliminary Prospectus, any Rule 482 Statement and of the Prospectus and any amendments or supplements thereto and any reasonable costs associated with electronic delivery of any of the foregoing by the Underwriter to investors, (vi) the preparation, printing and delivery to the Underwriters of copies of the Blue Sky Survey and any supplement thereto, (vii) the fees and expenses of any transfer agent or registrar for the Shares associated with the purchase by the Underwriters of the Shares, (viii) the fees and expenses incurred in connection with the listing of the Shares on the NYSE American, (ix) the printing of any Sales Material, and (x) the transportation and other expenses incurred by or on behalf of Fund representatives in connection with presentations to prospective purchasers of the Shares.

(b) **Termination of Agreement.** If this Agreement is terminated by the Representative in accordance with the provisions of Section 5, Section 9(a)(i) or Section 9(a)(iii) (with respect to the first clause only) hereof, the Fund agrees that it shall reimburse the Underwriters for all of their reasonable and documented out-of-pocket expenses, including reasonable and documented fees and disbursements of counsel for the Underwriters.

Section 5. Conditions of Underwriter's Obligations.

The obligations of the several Underwriters hereunder are subject to the accuracy of the representations and warranties of the Fund and the Adviser contained in Section 1 hereof or in certificates of any officer of the Fund or the Adviser delivered pursuant to the provisions hereof, to the performance by the Fund and the Adviser of their respective covenants and other obligations hereunder, and to the following further conditions:

(a) **Effectiveness of Registration Statement.** The Original Registration Statement has become effective and at Closing Time no stop order suspending the effectiveness of the Original Registration Statement shall have been issued under the 1933 Act, no notice or order pursuant to Section 8(e) of the 1940 Act shall have been issued, and no proceedings with respect to either shall have been initiated or, to the Fund's knowledge, threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Underwriters. A prospectus containing the Rule 430B Information shall have been filed with the Commission in accordance with Rule 497 (or a post-effective amendment providing such information shall have been filed and declared effective in accordance with the requirements of Rule 430B).

(b) **Opinions of Counsel.**

(i) Opinion of Counsel for the Fund. At Closing Time, the Representative shall have received the favorable opinion, dated as of Closing Time, from Skadden, Arps, Slate, Meagher & Flom LLP, special counsel for the Fund, in form and substance satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters to the effect set forth on Schedule E hereto.

(ii) Opinion of Counsel for the Adviser. At Closing Time, the Representative shall have received the favorable opinions, dated as of Closing Time, from (x) Skadden, Arps, Slate, Meagher & Flom LLP, special counsel for the Adviser, in form and substance satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters to the effect set forth on Schedule F-1 hereto, and (y) internal counsel for the Adviser in form and substance satisfactory to counsel for the Underwriters, together with signed or reproduced copies of such letter for each of the other Underwriters to the effect set forth on Schedule F-2 hereto.

(iii) Opinion of Counsel for the Underwriters. At Closing Time, the Underwriters shall have received the favorable opinion, dated as of Closing Time, from Simpson Thacher & Bartlett LLP, counsel for the Underwriters, which opinion shall be in form and substance satisfactory to the Underwriters. Insofar as the opinion expressed above is related to or dependent upon matters governed by Delaware law, Simpson Thacher & Bartlett LLP will be permitted to rely on the opinion of Skadden, Arps, Slate, Meagher & Flom LLP.

(c) **Officers' Certificates.** At Closing Time, there shall not have been, since the date hereof or since the respective dates as of which information is given in the Registration Statement, the Original

Registration Statement, the Preliminary Prospectus or the Prospectus, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Fund, whether or not arising in the ordinary course of business, and the Representative shall have received (x) a certificate of a duly authorized officer of the Fund and of the chief financial or chief accounting officer of the Fund and of the President or a Vice President or Managing Director (or person holding similar office) of the Adviser, dated as of Closing Time, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties in Sections l(a) and (b) hereof are true and correct with the same force and effect as though expressly made at and as of Closing Time, (iii) the Fund or the Adviser, as applicable, has complied with all agreements and satisfied all conditions on its part to be performed or satisfied at or prior to Closing Time, and (iv) to the knowledge of such officers, no stop order suspending the effectiveness of the Original Registration Statement, or order of suspension or revocation of registration pursuant to Section 8(e) of the 1940 Act, has been issued and no proceedings for any such purpose have been instituted or are pending or, to the knowledge of such officers, contemplated by the Commission and (y) a certificate of the Fund's chief financial officer, dated the date hereof, substantially in the form of Schedule G hereto.

(d) **Accountant's Comfort Letter.** At the time of the execution of this Agreement, the Representative shall have received from Tait, Weller & Baker LLP a letter dated such date, in form and substance satisfactory to the Representative, containing statements and information of the type ordinarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained in the Registration Statement, the Original Registration Statement, the Preliminary Prospectus and the Prospectus.

(e) **Bring-Down Comfort Letter.** At Closing Time, the Representative shall have received from Tait, Weller & Baker LLP a letter, dated as of Closing Time, to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (d) of this Section, except that the specified date referred to shall be a date not more than three (3) Business Days prior to Closing Time.

(f) **Maintenance of Ratings**. The Fund shall have delivered to the Representative evidence satisfactory to the Representative that the Shares are rated " " by Moody's Investors Service, Inc. as of the Closing Time, and since the date of this Agreement there shall not have been received by the Fund or the Adviser any notice of any intended or potential downgrading, or any review for a potential downgrading, in the rating assigned to the Shares by Moody's Investors Service, Inc.

(g) **Approval of Listing.** At Closing Time, the Shares shall have been approved for listing on the NYSE American, subject only to official notice of issuance.

(h) **Filing of Statement**. At Closing Time, the Fund shall have filed the Statement with the Commission.

(i) **Additional Documents**. At Closing Time, counsel for the Underwriters shall have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling them to pass upon the issuance and sale of the Shares as herein contemplated, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions herein contained; and all proceedings taken by the Fund and the Adviser in connection with the organization and registration of the Fund under the 1940 Act and the issuance and sale of the Shares as herein contemplated shall be reasonably satisfactory in form and substance to the Representative and counsel for the Underwriters.

(j) **Termination of Agreement.** If any condition specified in this Section shall not have been fulfilled when and as required to be fulfilled, this Agreement may be terminated by the Representative by notice to the Fund at any time at or prior to Closing Time, and such termination shall be without liability of any party to any other party except as provided in Section 4 and except that Sections 1, 6, 7, 8, 16 and 18 shall survive any such termination and remain in full force and effect.

Section 6. Indemnification.

(a) **Indemnification of Underwriters.** The Fund and the Adviser agree, jointly and severally, to indemnify and hold harmless each Underwriter, affiliates of each Underwriter (as such term is defined in Rule 501(b) under the 1933 Act, each an "Affiliate"), and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Original Registration Statement (or any amendment thereto), including any Rule 430B Information, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in any Rule 482 Statement, any Preliminary Prospectus or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission; provided that (subject to Section 6(e) below) any such settlement is effected with the written consent of the Fund; and

(iii) against any and all expense whatsoever, as incurred (including the reasonable and documented fees and disbursements of counsel chosen by MS), reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (i) or (ii) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Fund or the Adviser by any Underwriter through MS expressly for use in the Registration Statement (or any amendment thereto), including the Rule 430B Information, or any Rule 482 Statement, the Preliminary Prospectus or the Prospectus (or any amendment or supplement thereto).

Notwithstanding this paragraph (a), the Adviser shall be liable to any party to be indemnified under the Section 6(a) in any case only to the extent that the Fund fails to indemnify and hold harmless the indemnified party.

(b) **Indemnification of Fund, Adviser, Trustees and Officers.** Each Underwriter severally agrees to indemnify and hold harmless the Fund and the Adviser, their respective trustees, directors and officers, and each person, if any, who controls the Fund or the Adviser within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and any director, trustee, officer, or affiliate thereof, against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, as incurred, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including any Rule 430B Information, or the Rule 482 Statement, the Preliminary Prospectus or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Fund or the Adviser by such Underwriter through MS expressly for use in the Registration Statement (or any amendment thereto), including any Rule 430B Information, or the Rule 482 Statement, the Preliminary Prospectus or the Prospectus (or any amendment or supplement thereto).

(c) **Indemnification for Marketing Materials.** In addition to the foregoing indemnification, the Fund and the Adviser also agree, jointly and severally, to indemnify and hold harmless each Underwriter and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act, against any and all loss, liability, claim, damage and expense described in the indemnity contained in Section 6(a), as limited by the proviso set forth therein, with respect to any Sales Material in the form approved in writing by the Fund or the Adviser for use by the Underwriters and securities firms to whom the Fund or the Adviser shall have disseminated materials in connection with the public offering of the Shares.

(d) **Actions Against Parties; Notification.** Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability hereunder to the extent it is not materially prejudiced as a result thereof and in any event shall not relieve it from any liability which it may have otherwise than on account of this indemnity agreement. In the case of parties indemnified pursuant to Section 6(a) above, counsel to the indemnified parties shall be selected by MS, and, in the case of parties indemnified pursuant to Section 6(b) above, counsel to the indemnified parties shall be selected by the Fund and the Adviser. An indemnifying party may participate at its own expense in the defense of any such action; provided, however, that counsel to the indemnifying party shall not (except with the consent of the indemnified party) also be counsel to the indemnified party. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 6 or Section 7 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

(e) **Settlement Without Consent if Failure to Reimburse.** If at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel, such indemnifying party agrees that it shall be liable for any settlement of the nature contemplated by Section 6(a)(ii) effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request, (ii) such

indemnifying party shall have received notice of the terms of such settlement at least 30 days prior to such settlement being entered into and (iii) such indemnifying party shall not have reimbursed such indemnified party in accordance with such request prior to the date of such settlement.

(f) **Limitations on Indemnification.** Any indemnification by the Fund shall be subject to the requirements and limitations of Section 17(i) of the 1940 Act and 1940 Act Release No. 11330.

Section 7. Contribution.

If the indemnification provided for in Section 6 hereof is for any reason unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, liabilities, claims, damages or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount of such losses, liabilities, claims, damages and expenses incurred by such indemnified party, as incurred, (i) in such proportion as is appropriate to reflect the relative benefits received by the Fund and the Adviser on the one hand and the Underwriters on the other hand from the offering of the Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Fund and the Adviser on the one hand and of the Underwriters on the other hand in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations.

The relative benefits received by the Fund and the Adviser on the one hand and the Underwriters on the other hand in connection with the offering of the Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as the total net proceeds from the offering of the Shares pursuant to this Agreement (before deducting expenses) received by the Fund and the total underwriting discount received by the Underwriters (whether from the Fund or otherwise), in each case as set forth on the cover of the Prospectus, bear to the aggregate public offering price of the Shares as set forth on the cover of the Prospectus.

The relative fault of the Fund and the Adviser on the one hand and the Underwriters on the other hand shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Fund or the Adviser or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Fund, the Adviser and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this Section 7. The aggregate amount of losses, liabilities, claims, damages and expenses incurred by an indemnified party and referred to above in this Section 7 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue or alleged untrue statement or omission or alleged omission.

Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Shares underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of any such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of

Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act and each Underwriter's Affiliates shall have the same rights to contribution as such Underwriter, and each trustee of the Fund and each member or director of the Adviser, respectively, each officer of the Fund who signed the Registration Statement, and each person, if any, who controls the Fund or the Adviser, within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Fund and the Adviser, respectively. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the number of Shares set forth opposite their respective names in Schedule A hereto and not joint.

Any contribution by the Fund shall be subject to the requirements and limitations of Section 17(i) of the 1940 Act and 1940 Act Release No. 11330.

Section 8. Representations and Warranties To Survive Delivery.

All representations, warranties and agreements contained in this Agreement or in certificates of officers of the Fund or the Adviser submitted pursuant hereto, shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or controlling person, or by or on behalf of the Fund or the Adviser, and shall survive delivery of the Shares to the Underwriters.

Section 9. Termination of Agreement.

(a) **Termination; General.** The Representative may terminate this Agreement, by notice to the Fund, at any time at or prior to Closing Time (i) if there has been, since the time of execution of this Agreement or since the respective dates as of which information is given in the Prospectus or General Disclosure Package, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Fund or the Adviser, whether or not arising in the ordinary course of business, (ii) if there has occurred any material adverse change in the financial markets in the United States or the international financial markets, any material outbreak of hostilities or material escalation thereof or other calamity or crisis or any change or development involving a prospective change in national or international political, financial or economic conditions, in each case the effect of which is such as to make it, in the judgment of the Representative, impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares, (iii) if trading in the Shares of the Fund has been suspended or materially limited by the Commission or the NYSE American, or if trading generally on the NYSE American, the New York Stock Exchange or in the NASDAQ Stock Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by such system or by order of the Commission, the FINRA or any other governmental authority, (iv) a material disruption has occurred in commercial banking or securities settlement or clearance services in the United States, or (v) if a banking moratorium has been declared by either U.S. or New York authorities.

(b) **Liabilities.** If this Agreement is terminated pursuant to this Section 9, such termination shall be without liability of any party to any other party except as provided in Section 4 hereof, and provided further that Sections 1, 6, 7, 8, 16 and 18 shall survive such termination and remain in full force and effect.

Section 10. Default by One or More of the Underwriters.

If one or more of the Underwriters shall fail at Closing Time to purchase the Shares which it or they are obligated to purchase under this Agreement (the "Defaulted Securities"), the Representative shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, the Representative shall not have completed such arrangements within such 24-hour period, then:

(a) if the number of Defaulted Securities does not exceed 10% of the number of the Shares to be purchased hereunder, each of the non-defaulting Underwriters shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(b) if the number of Defaulted Securities exceeds 10% of the number of the Shares to be purchased hereunder, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default.

In the event of any such default which does not result in a termination of this Agreement, either the Representative or the Fund shall have the right to postpone Closing Time for a period not exceeding seven days in order to effect any required changes in the Registration Statement or Prospectus or in any other documents or arrangements. As used herein, the term "Underwriter" includes any person substituted for an Underwriter under this Section 10.

Section 11. Notices.

All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed to the Representative, c/o Morgan Stanley & Co. LLC, 1585 Broadway, New York, NY 10036, attention of Capital Markets Transaction Management/Legal; and notices to the Fund or the Adviser shall be directed, as appropriate, to the office of the Adviser, One Corporate Center, Rye, New York 10580-1422, attention of Andrea Mango, with a copy to Thomas A. DeCapo, Skadden, Arps, Slate, Meagher & Flom LLP, 4 Times Square, New York, New York 10036.

Section 12. No Advisory or Fiduciary Relationship.

The Fund and the Adviser each acknowledge and agree that (a) the purchase and sale of the Shares pursuant to this Agreement, including the determination of the public offering price of the Shares and any related discounts and commissions, is an arm's-length commercial transaction between the Fund, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering contemplated hereby and the process leading to such transaction each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Fund or the Adviser, or any of their respective stockholders, creditors or employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Fund or the Adviser with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Fund or the Adviser on other matters) and no Underwriter has any obligation to the Fund or the Adviser with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Fund or the Adviser,

and (e) the Underwriters have not provided legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Fund and the Adviser each has consulted its own respective legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

Section 13. Parties.

This Agreement shall each inure to the benefit of and be binding upon the Underwriters, the Fund, the Adviser and their respective partners and successors. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any person, firm or corporation, other than the Underwriters, the Fund, the Adviser and their respective successors and the controlling persons and officers and directors referred to in Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. This Agreement and all conditions and provisions hereof are intended to be for the sole and exclusive benefit of the Underwriters, the Fund, the Adviser and their respective partners and successors, and said controlling persons and officers, directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Shares from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

Section 14. Tax Disclosure.

Notwithstanding any other provision of this Agreement, immediately upon commencement of discussions with respect to the transactions contemplated hereby, the Fund and the Adviser (and each employee, representative or other agent of the Fund) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the transactions contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to the Fund relating to such tax treatment and tax structure. For purposes of the foregoing, the term "tax treatment" is the purported or claimed federal income tax treatment of the transactions contemplated hereby, and the term "tax structure" includes any fact that may be relevant to understanding the purported or claimed federal income tax treatment of the transactions contemplated hereby.

Section 15. Integration.

This Agreement supersedes all prior agreements and understandings (whether written or oral) among the Fund, the Adviser and the Underwriters, or any of them, with respect to the subject matter hereof.

Section 16. Governing Law.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED IN SAID STATE.

Section 17. Time.

TIME SHALL BE OF THE ESSENCE OF THIS AGREEMENT. UNLESS OTHERWISE EXPLICITLY PROVIDED, SPECIFIED TIMES OF DAY REFER TO NEW YORK CITY TIME.

Section 18. Submission to Jurisdiction/Jury Trial Waiver.

Except as set forth below, no suits, actions, claims, counterclaims or proceedings (each, a "Proceeding") which relates to the terms of this Agreement or the transactions contemplated hereby (each, a "Claim") may be commenced, prosecuted or continued in any court other than the United States District Court for the Southern District of New York, or in the event that court lacks jurisdiction to hear such Claims, in the courts of the State of New York located in the City and County of New York, which courts shall have exclusive jurisdiction over the adjudication of such claims. Each of the Fund, the Adviser and the Underwriters hereby submits to and accepts generally and unconditionally the exclusive jurisdiction of those for the purposes of the adjudication of such Claims and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such Proceeding brought in such court and any claim that any such Proceeding brought in such court has been brought in an inconvenient forum. Each of the Underwriters, the Fund (on its behalf and, to the extent permitted by applicable law, on behalf of its shareholders and affiliates) and the Adviser (on its behalf and, to the extent permitted by applicable law, on behalf of its shareholders and affiliates) hereby waives all right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) in any way arising out of or relating to this Agreement. Each of the Fund, the Adviser and the Underwriters agrees that a final judgment in any such action, proceeding or counterclaim brought in any such court shall be conclusive and binding upon the Fund, the Adviser or the Underwriters, as the case may be, and may be enforced in any other courts in the jurisdiction of which the Fund, the Adviser or the Underwriters, as the case may be, is or may be subject, by suit upon such judgment.

Section 19. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

Section 20. Effect of Headings.

The Section headings herein are for convenience only and shall not affect the construction hereof.

If the foregoing is in accordance with your understanding of our agreement, please sign and return to MS a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement among the Underwriters, the Fund and the Adviser in accordance with its terms.

Very truly yours,

ELLSWORTH GROWTH AND INCOME FUND LTD.

By: /s/ John C. Ball
Name: John C. Ball
Title: Treasurer

GABELLI FUNDS, LLC

By: /s/ Agnes Mullady
Name: Agnes Mullady
Title: Vice President

CONFIRMED AND ACCEPTED,

As of the date first above written:

By: Morgan Stanley & Co. LLC

By: /s/ Yurij Slyz
Name: Yurij Slyz
Title: Executive Director

For themselves and as Representative of the other Underwriters named in Schedule A hereto.

SCHEDULE A

Ellsworth Growth and Income Fund Ltd.
5.25% Series A Cumulative Preferred Shares

Name of Underwriter	Number of Shares
Morgan Stanley & Co. LLC	1,080,000
G.research, LLC	120,000
	1,200,000

SCHEDULE B

The purchase price to be paid by the Underwriters for the Shares shall be $24.2125 per share.

SCHEDULE C

Number of Securities: 1,200,000
Dividend Rate (cumulative from September 18, 2017): 5.25%
Settlement Date: September 18, 2017
Underwriting Discount per share: $0.7875
Optional Redemption Date: On or after September 18, 2022
Net Proceeds: $29,055,000

SCHEDULE D

Rule 482 Statement

Rule 482 ad filed under Rule 497 on September 13, 2017.

SCHEDULE E

Opinion of Skadden, Arps, Slate, Meagher & Flom LLP

SCHEDULE F-1

Opinion of Skadden, Arps, Slate, Meagher & Flom LLP

SCHEDULE F-2

Opinion of Internal Counsel to the Adviser

SCHEDULE G

ELLSWORTH GROWTH AND INCOME FUND LTD.

TREASURER'S CERTIFICATE

September 13, 2017

I, John C. Ball, Treasurer of Ellsworth Growth and Income Fund Ltd. (the "Fund") do hereby certify that I am the Treasurer and principal financial officer of the Fund. In that capacity, I have reviewed the Fund's definitive base prospectus dated August 31, 2017 (the "Base Prospectus") and the preliminary prospectus supplement dated September 13, 2017 (the "Preliminary Prospectus Supplement"), each relating to the offering of 1,200,000 of the Fund's Series A Cumulative Preferred Shares, liquidation preference $25.00 per share, par value $0.01 per share (the "Offering"). Based upon a review of the Fund's financial records, schedules and analyses undertaken by myself or by members of my staff who are responsible for the Fund's financial and accounting matters, I do hereby certify to the Underwriters, to the best of my information, knowledge and belief, that:

(i) I am providing this certificate in connection with the Offering, as described in the Preliminary Prospectus Supplement.

(ii) I am familiar with the accounting, operations and records of the Fund.

(iii) I have supervised the compilation of and reviewed the circled information contained on the attached **EXHIBIT A**, which is included in the Preliminary Prospectus Supplement and the Registration Statement.

(iv) With respect to each item of the circled information identified on **EXHIBIT A**, I or members of my staff have (a) compared the amounts to the corresponding amounts appearing on the records, schedules or analyses of the Fund and found the amounts to be in agreement, and (b), where such amounts were derived from Fund schedules or analyses, recomputed such amounts and determined that the amounts appearing in each item of the circled information identified on **EXHIBIT A** were arithmetically correct.

Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Underwriting Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first set forth above.

By: /s/ John C. Ball
Name: John C. Ball
Title: Treasurer

Exhibit (h)(ii)

Morgan Stanley & Co. LLC

MASTER AGREEMENT AMONG UNDERWRITERS

REGISTERED SEC OFFERINGS

(INCLUDING MULTIPLE SYNDICATE OFFERINGS)

AND

EXEMPT OFFERINGS

(OTHER THAN OFFERINGS OF MUNICIPAL SECURITIES)

July 15, 2014

This Master Agreement Among Underwriters (this "**Master AAU**"), dated as of July 15, 2014, is by and between Morgan Stanley & Co. LLC ("***Morgan Stanley***," or "**we**") and the party named on the signature page hereof (an "**Underwriter**," as defined in Section 1.1 hereof, or "**you**"). From time to time we or one or more of our affiliates may invite you (and others) to participate on the terms set forth herein as an underwriter or an initial purchaser, or in a similar capacity, in connection with certain offerings of securities that are managed solely by us or with one or more other co-managers. If we invite you to participate in a specific offering and sale of securities (an "**Offering**") to which this Master AAU will apply, we will send the information set forth in Section 1.1 hereof to you by one or more wires, telexes, telecopy or electronic data transmissions, or other written communications (each, a "**Wire**," and collectively, an "**AAU**"), unless you are otherwise deemed to have accepted an AAU with respect to such Offering pursuant to Section 1.2 hereof. Each Wire will indicate that it is a Wire pursuant to this Master AAU. The Wire inviting you to participate in an Offering is referred to herein as an "**Invitation Wire**." You and we hereby agree that by the terms hereof the provisions of this Master AAU automatically will be incorporated by reference in each AAU, **except that any such AAU may also exclude or revise such provisions of this Master AAU in respect of the Offering to which such AAU relates, and may contain such additional provisions as may be specified in any Wire relating to such AAU. You and we further agree as follows:**

I. GENERAL

1.1. Terms of AAU; Certain Definitions; Construction. Each AAU will relate to an Offering, and will identify: (i) the securities to be offered in the Offering (the "**Securities**"), their principal terms, the issuer or issuers (each, an "**Issuer**") and any guarantor (each, a "**Guarantor**") thereof, and, if different from the Issuer, the seller or sellers (each, a "**Seller**") of the Securities, (ii) the underwriting agreement, purchase agreement, standby underwriting agreement, distribution agreement, or similar agreement (as identified in such AAU and as amended or supplemented, including a terms agreement or pricing agreement pursuant to any of the foregoing, collectively, the "**Underwriting Agreement**") providing for the purchase, on a several and not joint basis, of the Securities by the several underwriters, initial purchasers, or others acting in a similar capacity (the "**Underwriters**") on whose behalf the Manager (as defined below) executes the Underwriting Agreement, and whether such agreement provides for: (x) an option to purchase Additional Securities (as defined below) to cover sales of shares in excess of the number of Firm Securities (as defined below), or (y) an offering in multiple jurisdictions or markets involving two or more syndicates (an "**International Offering**"), each of which will offer and sell Securities subject to such restrictions as may be specified in any Intersyndicate Agreement (as defined below) referred to in such AAU, (iii) the price at which the Securities are to be purchased by the several Underwriters from any Issuer or Seller thereof (the "**Purchase Price**"), (iv) the offering terms, including, if applicable, the price or prices at which the Securities initially will be offered by the Underwriters (the "**Offering Price**"), any selling concession to dealers (the "**Selling Concession**"), reallowance (the "**Reallowance**"), management fee, global coordinators' fee, praecipium, or other similar fees, discounts, or commissions (collectively, the "**Fees and Commissions**") with respect to the Securities, and (v) other principal terms of the Offering, which may include, without limitation: (A) the proposed or actual pricing date ("**Pricing Date**") and settlement date (the "**Settlement Date**"), (B) any contractual restrictions on the offer and sale of the Securities pursuant to the Underwriting Agreement, Intersyndicate Agreement, or otherwise, (C) any co-managers for such

Offering (the "**Co-Managers**"), (D) your proposed participation in the Offering, and (E) any trustee, fiscal agent, or similar agent (the "**Trustee**") for the indenture, trust agreement, fiscal agency agreement, or similar agreement (the "**Indenture**") under which such Securities will be issued.

"**Manager**" means Morgan Stanley, except as set forth in Section 9.9 hereof. "**Representative**" means the Manager and any Co-Manager that signs the applicable Underwriting Agreement on behalf of the Underwriters or is identified as a Representative in the applicable Underwriting Agreement. "**Underwriters**" includes the Representative(s), the Manager, and the Co-Managers. "**Firm Securities**" means the number or amount of Securities that the several Underwriters are initially committed to purchase under the Underwriting Agreement (which may be expressed as a percentage of an aggregate number or amount of Securities to be purchased by the Underwriters, as in the case of a standby Underwriting Agreement). "**Additional Securities**" means the Securities, if any, that the several Underwriters have an option to purchase under the Underwriting Agreement to cover sales of shares in excess of the number of Firm Securities. The number, amount, or percentage of Firm Securities set forth opposite each Underwriter's name in the Underwriting Agreement plus any additional Firm Securities which such Underwriter has made a commitment to purchase, irrespective of whether such Underwriter actually purchases or sells such number, amount, or percentage of Securities under the Underwriting Agreement or Article XI hereof, is hereinafter referred to as the "**Original Underwriting Obligation**" of such Underwriter, and the ratio which such Original Underwriting Obligation bears to the total of all Firm Securities set forth in the Underwriting Agreement (or, in the case of a standby Underwriting Agreement, to 100%) is hereinafter referred to as the "**Underwriting Percentage**" of such Underwriter. For the avoidance of doubt, each Underwriter acknowledges and agrees that, for all purposes under this Agreement and otherwise (including, to the extent applicable, for purposes of Section 11(e) under the U.S. Securities Act of 1933 (the "**1933 Act**")), each Underwriter's Underwriting Percentage of the total number, amount, or percentage of Securities offered and sold in the Offering (including any Additional Securities), and only such number, amount, or percentage, constitutes the securities underwritten by such Underwriter and distributed to investors. [1]

References herein to laws, statutory and regulatory sections, rules, regulations, forms, and interpretive materials will be deemed to include any successor provisions.

1.2. Acceptance of AAU. You will have accepted an AAU for an Offering if: (a) we receive your acceptance, prior to the time specified in the Invitation Wire for such Offering, by wire, telex, telecopy or electronic data transmission, or other written communication (any such communication being deemed "**In Writing**") or orally (if promptly confirmed In Writing), in the manner specified in the Invitation Wire, of our invitation to participate in the Offering, or (b) notwithstanding that we did not send you an Invitation Wire or you have not otherwise responded In Writing to any such Wire, you: (i) agree (orally or by a Wire) to be named as an Underwriter in the relevant Underwriting Agreement executed by us as Manager, or (ii) receive

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1 Meant to clarify mechanics of underwriting for purposes of Section 11(e), and rebut footnote 8 of the WorldCom decision (See In re: Worldcom, Inc. Securities Litigation, U.S. Dist. Ct. (SDNY), slip-op 02 Civ 3288, March 14, 2005 (unpublished).

and retain an economic benefit for participating in the Offering as an Underwriter. Your acceptance of the invitation to participate will cause such AAU to constitute a valid and binding contract between us. Your acceptance of the AAU as provided above or an Invitation Wire will also constitute acceptance by you of the terms of subsequent Wires to you relating to the Offering unless we receive In Writing, within the time and in the manner specified in such subsequent Wire, a notice from you to the effect that you do not accept the terms of such subsequent Wire, in which case you will be deemed to have elected not to participate in the Offering.

1.3. Underwriters' Questionnaire. Your acceptance of the Invitation Wire for an Offering or your participation in an Offering as an Underwriter will confirm that you have no exceptions to the Underwriters' Questionnaire attached as Exhibit A hereto (or to any other questions addressed to you in any Wires relating to the Offering previously sent to you), other than exceptions noted by you In Writing in connection with the Offering and received from you by us before the time specified in the Invitation Wire or any subsequent Wire.

II. OFFERING MATERIALS; OFFERING AGREEMENTS

2.1. Registered Offerings. In the case of an Offering that will be registered in whole or in part (a "**Registered Offering**") under the 1933 Act, you acknowledge that the Issuer has filed with the Securities and Exchange Commission (the "**Commission**") a registration statement, including a prospectus relating to the Securities. "**Registration Statement**" means such registration statement as amended to the effective date of the Underwriting Agreement and, in the event that the Issuer files an abbreviated registration statement to register additional Securities pursuant to Rule 462(b) or 462(e) under the 1933 Act, such abbreviated registration statement. "**Prospectus**" means the prospectus, together with the final prospectus supplement, if any, containing the final terms of the Securities and, in the case of a Registered Offering that is an International Offering, "**Prospectus**" means, collectively, each prospectus or offering circular, together with each final prospectus supplement or final offering circular supplement, if any, relating to the Offering, in the respective forms containing the final terms of the Securities. "**Preliminary Prospectus**" means any preliminary prospectus relating to the Offering or any preliminary prospectus supplement together with a prospectus relating to the Offering and, in the case of a Registered Offering that is an International Offering, "**Preliminary Prospectus**" means, collectively, each preliminary prospectus or preliminary offering circular relating to the Offering or each preliminary prospectus supplement or preliminary offering circular supplement, together with a prospectus or offering circular, respectively, relating to the Offering. "**Free Writing Prospectus**" means, in the case of a Registered Offering, a "free writing prospectus" as defined in Rule 405 under the 1933 Act. As used herein the terms "**Registration Statement**," "**Prospectus**," "**Preliminary Prospectus**," and "**Free Writing Prospectus**" will include in each case the material, if any, incorporated by reference therein, and as used herein, the term "**Registration Statement**" includes information deemed to be part thereof pursuant to, and as of the date and time specified in, Rules 430A, 430B, or 430C under the 1933 Act, while the terms "**Prospectus**" and "**Preliminary Prospectus**" include information deemed to be a part thereof pursuant to the rules and regulations under the 1933 Act, but only as of the actual time that information is first used or filed with the Commission pursuant to Rule 424(b) under the 1933 Act. The Manager will furnish, make available to you, or make arrangements for you to obtain copies (which may, to the extent permitted by law, be in electronic form) of each Prospectus and

Preliminary Prospectus (as amended or supplemented, if applicable, but excluding, for this purpose, unless otherwise required pursuant to rules or regulations under the 1933 Act, documents incorporated therein by reference) as soon as practicable after sufficient quantities thereof have been made available by the Issuer.

As used herein, in the case of an Offering that is an offering of asset-backed securities, the term "**ABS Underwriter Derived Information**" means any analytical or computational materials as described in clause (5) of footnote 271 of Commission Release No. 33-8591, issued July 19, 2005 (Securities Offering Reform) (the "**Securities Offering Reform Release**").

2.2. Non-Registered Offerings. In the case of an Offering other than a Registered Offering, you acknowledge that no registration statement has been filed with the Commission. "**Offering Circular**" means the final offering circular or memorandum, if any, or any other final written materials authorized by the Issuer to be used in connection with an Offering that is not a Registered Offering. "**Preliminary Offering Circular**" means any preliminary offering circular or memorandum, if any, or any other written preliminary materials authorized by the Issuer to be used in connection with such an Offering. As used herein, the terms "**Offering Circular**" and "**Preliminary Offering Circular**" include the material, if any, incorporated by reference therein. We will either, as soon as practicable after the later of the date of the Invitation Wire or the date made available to us by the Issuer, furnish to you (or make available for your review) a copy of any Preliminary Offering Circular or any proof or draft of the Offering Circular. In any event, in any Offering involving an Offering Circular, the Manager will furnish, make available to you, or make arrangements for you to obtain, as soon as practicable after sufficient quantities thereof are made available by the Issuer, copies (which may, to the extent permitted by law, be in electronic form) of the Preliminary Offering Circular and Offering Circular, as amended or supplemented, if applicable (but excluding, for this purpose, documents incorporated therein by reference).

2.3. Authority to Execute Underwriting and Intersyndicate Agreements. You authorize the Manager, on your behalf: (a) to determine the form of the Underwriting Agreement and to execute and deliver to the Issuer, Guarantor, or Seller the Underwriting Agreement to purchase: (i) up to the number, amount, or percentage of Firm Securities set forth in the applicable AAU, and (ii) if the Manager elects on behalf of the several Underwriters to exercise any option to purchase Additional Securities, up to the number, amount, or percentage of Additional Securities set forth in the applicable AAU, subject, in each case, to reduction pursuant to Article IV; and (b) to determine the form of any agreement or agreements, including, but not limited to, underwriting agreements, between or among the syndicates participating in the Offering or International Offering, respectively (each, an "**Intersyndicate Agreement**"), and to execute and deliver any such Intersyndicate Agreement.

III. MANAGER'S AUTHORITY

3.1. Terms of Offering. You authorize the Manager to act as manager of the Offering of the Securities by the Underwriters (the "**Underwriters' Securities**") or by the Issuer or Seller pursuant to delayed delivery contracts (the "**Contract Securities**"), if any, contemplated by the Underwriting Agreement. You authorize the Manager: (i) to purchase any or all of the Additional Securities for the accounts of the several Underwriters pursuant to the Underwriting Agreement, (ii) to agree, on your behalf and on behalf of the Co-Managers, to any addition to,

change in, or waiver of any provision of, or the termination of, the Underwriting Agreement or any Intersyndicate Agreement (other than an increase in the Purchase Price or in your Original Underwriting Obligation to purchase Securities, in either case from that contemplated by the applicable AAU), (iii) to add prospective or remove existing Underwriters from the syndicate, (iv) to exercise, in the Manager's discretion, all of the authority vested in the Manager in the Underwriting Agreement, (v) except as described below in this Section 3.1, to take any other action as may seem advisable to the Manager in respect of the Offering (including, in the case of an Offering of asset-backed securities, the preparation and delivery of ABS Underwriter Derived Information), including actions and communications with the Commission, the Financial Industry Regulatory Authority ("**FINRA**"), state blue sky or securities commissions**,** stock exchanges, and other regulatory bodies or organizations. Furthermore, the Manager will have exclusive authority, on your behalf and on behalf of the Co-Managers, to exercise powers and pursue enforcement of the terms and conditions of the Underwriting Agreement and any Intersyndicate Agreement, whether or not actually exercised, except as otherwise specified herein or therein. If, in accordance with the terms of the applicable AAU, the Offering of the Securities is at varying prices based on prevailing market prices, or prices related to prevailing market prices, or at negotiated prices, you authorize the Manager to determine, on your behalf in the Manager's discretion, any Offering Price and the Fees and Commissions applicable to the Offering from time to time. You authorize the Manager on your behalf to arrange for any currency transactions (including forward and hedging currency transactions) as the Manager may deem necessary to facilitate settlement of the purchase of the Securities, but you do not authorize the Manager on your behalf to engage in any other forward or hedging transactions (including interest rate hedging transactions) in connection with the Offering unless such transactions are specified in an applicable AAU or are otherwise consented to by you. You further authorize the Manager, subject to the provisions of Section 1.2 hereof: (i) to vary the offering terms of the Securities in effect at any time, including, if applicable, the Offering Price, Fees, and Commissions set forth in the applicable AAU, (ii) to determine, on your behalf, the Purchase Price, and (iii) to increase or decrease the number, amount, or percentage of Securities being offered. Notwithstanding the foregoing provisions of this Section 3.1, the Manager will notify the Underwriters, prior to the signing of the Underwriting Agreement, of any provision in the Underwriting Agreement that could result in an increase in the number, amount, or percentage of Firm Securities set forth opposite each Underwriter's name in the Underwriting Agreement by more than 25% (or such other percentage as will have been specified in the applicable Invitation Wire or otherwise consented to by you) as a result of the failure or refusal of another Underwriter or Underwriters to perform its or their obligations thereunder. The Manager may, at its discretion, delegate to any Underwriter any and all authority vested in the applicable AAU, including, but not limited to, the powers set forth in Sections 5.1 and 5.2 hereof.

3.2. Offering Date. The Offering is to be made on or about the time the Underwriting Agreement is entered into by the Issuer, Guarantor, or Seller and the Manager as in the Manager's judgment is advisable, on the terms and conditions set forth in the Prospectus or the Offering Circular, as the case may be, and the applicable AAU. You will not sell any Securities prior to the time the Manager releases such Securities for sale to purchasers. The date on which such Securities are released for sale is referred to herein as the "**Offering Date**."

3.3. Communications. Any public announcement or advertisement of the Offering will be made by the Manager on behalf of the Underwriters on such date as the Manager may determine. You will not announce or advertise the Offering prior to the date of the Manager's announcement or advertisement thereof without the Manager's consent. You will abide by any restrictions in the Underwriting Agreement relating to any general solicitation, announcement, advertising, or publicity in addition to the restrictions in this Section 3.3. Further, if the Offering is made in whole or in part in reliance on any applicable exemption from registration under the 1933 Act, you will not engage in any general solicitation, announcement, or advertising in connection with the Offering that would be inconsistent with such exemption. Any announcement or advertisement you may make of the Offering after such date will be your own responsibility, and at your own expense and risk. In addition to your compliance with restrictions on the Offering pursuant to Sections 10.10, 10.11 and 10.12 hereof, you represent that you have not, and you agree that you will not, in connection with the offering and sale of the Securities in the Offering, give, send, or otherwise convey to any prospective purchaser or any purchaser of the Securities or other person not in your employ any written communication (as defined in Rule 405 under the 1933 Act) other than:

(i) any Preliminary Prospectus, Prospectus, Preliminary Offering Circular, or Offering Circular,

(ii) (A) written confirmations and notices of allocation delivered to your customers in accordance with Rules 172 or 173 under the 1933 Act, and written communications based on the exemption provided by Rule 134 under the 1933 Act, and (B) in the case of Offerings not registered under the 1933 Act, such written communications (1) as would be permitted by Section 3.3(v)(D)(1) below were such Offering registered under the 1933 Act, or (2) that the Manager or Underwriting Agreement may permit; *provided, however*, that such written communication under this clause (B) would not have otherwise constituted "**Issuer Information**" as defined below, or would have qualified for the exemption provided by Rule 134 under the 1933 Act, in each case, if such communication had been furnished in the context of a Registered Offering ("**Supplemental Materials**"),

(iii) any "issuer free writing prospectus" (as defined in Rule 433(h) under the 1933 Act, an "**Issuer Free Writing Prospectus**"), the issuance or use of which has been permitted or consented to by the Issuer and the Manager,

(iv) information contained in any computational materials, or in the case of an Offering of asset backed securities, the ABS Underwriter Derived Information, or any other offering materials not constituting a Free Writing Prospectus concerning the Offering, the Issuer, the Guarantor, or the Seller, in each case, prepared by or with the permission of the Manager for use by the Underwriters in connection with the Offering, and, in the case of a Registered Offering, filed (if required) with the Commission or FINRA, as applicable,

(v) a Free Writing Prospectus prepared by or on behalf of, or used or referred to by, an Underwriter in connection with the Offering, so long as: (A) such Free Writing Prospectus is not required to be filed with the Commission, (B) the proposed use of such Free Writing Prospectus is permitted by the

Underwriting Agreement, (C) such Free Writing Prospectus complies with the legending condition of Rule 433 under the 1933 Act, and you comply with the record-keeping condition of Rule 433, and (D) (1) such Free Writing Prospectus contains only information describing the preliminary terms of the Securities and other pricing data[2] that is not "**Issuer Information**" (as defined in Rule 433(h) under the 1933 Act, including footnote 271 of the Securities Offering Reform Release), or (2) the Issuer has agreed in the Underwriting Agreement to file a final term sheet under Rule 433 within the time period necessary to avoid a requirement for any Underwriter to file the Free Writing Prospectus to be used by such Underwriter, and the Free Writing Prospectus used by such Underwriter contains only information describing the terms of the Securities or their offering that is included in such final term sheet of the Issuer and other pricing data that is not Issuer Information (a Free Writing Prospectus meeting the requirements of (A) through (D) above is referred to herein as an "**Underwriter Free Writing Prospectus**"). Without limiting the foregoing, any Underwriter Free Writing Prospectus that you use or refer to will not be distributed by you or on your behalf in a manner reasonably designed to lead to its broad unrestricted dissemination. You will comply in all material respects with the applicable requirements of the 1933 Act and the rules and regulations thereunder in connection with your use of any Underwriter Free Writing Prospectus,

(vi) any written communication prepared by or on behalf of, or used or referred to by, the Issuer, the conveyance of which by you in reliance on Section 5(d) of the 1933 Act has been permitted or consented to by the Issuer and the Manager (a "**Written Testing-the-Waters Communication**"), so long as (A) you convey any such Written Testing-the-Waters Communication solely to entities that are qualified institutional buyers within the meaning of Rule 144A under the 1933 Act or institutions that are accredited investors within the meaning of Rule 501 under the 1933 Act, and (B) you otherwise comply with the requirements of Section 5(d) of the 1933 Act, and

(vii) any written communication not otherwise permitted under clauses (i) through (vi) above, the conveyance of which by you has been permitted or consented to by the Manager (a "**Manager-Approved Communication**").

3.4. Institutional and Retail Sales. You authorize the Manager to sell to institutions and retail purchasers such Securities purchased by you pursuant to the Underwriting Agreement as the Manager will determine. The Selling Concession on any such sales will be credited to the accounts of the Underwriters as the Manager will determine.

3.5. Sales to Dealers. You authorize the Manager to sell to Dealers (as defined below) such Securities purchased by you pursuant to the Underwriting Agreement as the Manager will determine. A "**Dealer**" will be a person who is: (a) a broker or dealer (as defined

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2 Meant to permit disclosure of non-Issuer related information, such as benchmark Treasury rate, in preliminary term sheets or price talk.

by FINRA) actually engaged in the investment banking or securities business, and (i) a member in good standing of FINRA, or (ii) a non-U.S. bank, broker, dealer, or other institution not eligible for membership in FINRA that, in the case of either clause (a)(i) or (a)(ii), makes the representations and agreements applicable to such institutions contained in Section 10.5 hereof, or (b) in the case of Offerings of Securities that are exempt securities under Section 3(a)(12) of the Securities Exchange Act of 1934 (the "**1934 Act**"), and such other Securities as from time to time may be sold by a "bank" (as defined in Section 3(a)(6) of the 1934 Act (a "**Bank**")), a Bank that is not a member of FINRA and that makes the representations and agreements applicable to such institutions contained in Section 10.5 hereof. If the price for any such sales by the Manager to Dealers exceeds an amount equal to the Offering Price less the Selling Concession set forth in the applicable AAU, the amount of such excess, if any, will be credited to the accounts of the Underwriters as the Manager will determine.

3.6. Direct Sales. The Manager will advise you promptly, on the Offering Date, as to the Securities purchased by you pursuant to the Underwriting Agreement that you will retain for direct sale. At any time prior to the termination of the applicable AAU, any such Securities that are held by the Manager for sale but not sold may, on your request and at the Manager's discretion, be released to you for direct sale, and Securities so released to you will no longer be deemed held for sale by the Manager. You may allow, and Dealers may reallow, a discount on sales to Dealers in an amount not in excess of the Reallowance set forth in the applicable AAU. You may not purchase Securities from, or sell Securities to, any other Underwriter or Dealer at any discount or concession other than the Reallowance, except with the prior consent of the Manager.

3.7. Release of Unsold Securities. From time to time prior to the termination of the applicable AAU, at the request of the Manager, you will advise the Manager of the number or amount of Securities remaining unsold which were retained by or released to you for direct sale, and of the number or amount of Securities and Other Securities (as defined below) purchased for your account remaining unsold which were delivered to you pursuant to Article V hereof or pursuant to any Intersyndicate Agreement, and, on the request of the Manager, you will release to the Manager any such Securities and Other Securities remaining unsold: (a) for sale by the Manager to institutions, Dealers, or retail purchasers, (b) for sale by the Issuer or Seller pursuant to delayed delivery contracts, or (c) if, in the Manager's opinion, such Securities or Other Securities are needed to make delivery against sales made pursuant to Article V hereof or any Intersyndicate Agreement.

3.8. International Offerings. In the case of an International Offering, you authorize the Manager: (i) to make representations on your behalf as set forth in any Intersyndicate Agreement, and (ii) to purchase or sell for your account pursuant to the Intersyndicate Agreement: (a) Securities, (b) any other securities of the same class and series, or any securities into which the Securities may be converted or for which the Securities may be exchanged or exercised, and (c) any other securities designated in the applicable AAU or applicable Intersyndicate Agreement (the securities referred to in clauses (b) and (c) above being referred to collectively as the "**Other Securities**").

IV. DELAYED DELIVERY CONTRACTS

4.1. Arrangements for Sales. Arrangements for sales of Contract Securities will be made only through the Manager acting either directly or through Dealers (including Underwriters acting as Dealers), and you authorize the Manager to act on your behalf in making such arrangements. The aggregate number or amount of Securities to be purchased by the several Underwriters will be reduced by the respective number or amounts of Contract Securities attributed to such Underwriters as hereinafter provided. Subject to the provisions of Section 4.2 hereof, the aggregate number or amount of Contract Securities will be attributed to the Underwriters as nearly as practicable in proportion to their respective Underwriting Percentages, except that, as determined by the Manager in its discretion: (a) Contract Securities directed and allocated by a purchaser to specific Underwriters will be attributed to such Underwriters, and (b) Contract Securities for which arrangements have been made for sale through Dealers will be attributed to each Underwriter approximately in the proportion that Securities of such Underwriter held by the Manager for sales to Dealers bear to all Securities so held. The fee with respect to Contract Securities payable to the Manager for the accounts of the Underwriters pursuant to the Underwriting Agreement will be credited to the accounts of the respective Underwriters in proportion to the Contract Securities attributed to such Underwriters pursuant to the provisions of this Section 4.1, less, in the case of each Underwriter, the concession to Dealers on Contract Securities sold through Dealers and attributed to such Underwriter.

4.2. Excess Sales. If the number or amount of Contract Securities attributable to an Underwriter pursuant to Section 4.1 hereof would exceed such Underwriter's Original Underwriting Obligation reduced by the number or amount of Underwriters' Securities sold by or on behalf of such Underwriter, such excess will not be attributed to such Underwriter, and such Underwriter will be regarded as having acted only as a Dealer with respect to, and will receive only the concession to Dealers on, such excess.

V. PURCHASE AND SALE OF SECURITIES

5.1. Facilitation of Distribution. In order to facilitate the distribution and sale of the Securities, you authorize the Manager to buy and sell Securities and any Other Securities, in addition to Securities sold pursuant to Article III hereof, in the open market or otherwise (including, without limitation, pursuant to any Intersyndicate Agreement), for long or short account, on such terms as it may deem advisable, and to over-allot in arranging sales. Such purchases and sales and over-allotments will be made for the accounts of the several Underwriters as nearly as practicable to their respective Underwriting Percentages or, in the case of an International Offering, such purchases and sales will be for such accounts as set forth in the applicable Intersyndicate Agreement. Any Securities or Other Securities which may have been purchased by the Manager for stabilizing purposes in connection with the Offering prior to the acceptance of the applicable AAU will be treated as having been purchased pursuant to this Section 5.1 for the accounts of the several Underwriters or, in the case of an International Offering, for such accounts as are set forth in the applicable Intersyndicate Agreement. Your net commitment pursuant to the foregoing authorization will not exceed at the close of business on any day an amount equal to 20% of your Underwriting Percentage of the aggregate initial Offering Price of the Firm Securities, it being understood that, in calculating such net commitment, the initial Offering Price will be used with respect to the Securities so purchased or

sold and, in the case of all Other Securities, will be the purchase price thereof. For purposes of determining your net commitment for short account (*i.e.*, "naked short"), any short position that can be covered with: (a) Securities that may be purchased upon exercise of any option to purchase Additional Securities, (b) in the case of an International Offering, any Securities or Other Securities that the Manager has agreed to purchase for your account pursuant to any applicable Intersyndicate Agreement, and (c) Securities that may be purchased pursuant to a forward sale contract or similar arrangement with the Issuer or any selling security holder in the Offering, will be disregarded. On demand you will take up and pay for any Securities or Other Securities so purchased for your account and any Securities released to you pursuant to Section 3.7 hereof, and will deliver to the Manager against payment any Securities or Other Securities so sold or over-allotted for your account or released to you. The Manager will notify you if it engages in any stabilization transaction in accordance with Rule 17a-2 under the 1934 Act, and will notify you of the date of termination of stabilization. You will not stabilize or engage in any syndicate covering transaction (as defined in Rule 100 of Regulation M under the 1934 Act ("**Regulation M**")) in connection with the Offering without the prior consent of the Manager. You will provide to the Manager any reports required of you pursuant to Rule 17a-2 of the 1934 Act not later than the date specified therein.

5.2. Penalty With Respect to Securities Repurchased by the Manager. If pursuant to the provisions of Section 5.1 hereof and prior to the termination of the Manager's authority to cover any short position incurred under the applicable AAU or such other date as the Manager may specify in a Wire, either: (a) the Manager purchases or contracts to purchase for the account of any Underwriter in the open market or otherwise any Securities which were retained by, or released to, you for direct sale or any Securities sold pursuant to Section 3.4 hereof for which you received a portion of the Selling Concession set forth in the applicable AAU, or any Securities which may have been issued on transfer or in exchange for such Securities, and which Securities were therefore not effectively placed for investment, or (b) if the Manager has advised you by Wire that trading in the Securities will be reported to the Manager pursuant to the "Initial Public Offering Tracking System" of The Depository Trust Company ("**DTC**") and the Manager determines, based on notices from DTC, that your customers sold a number or amount of Securities during any day that exceeds the number or amount previously notified to you by Wire, then you authorize the Manager either to charge your account with an amount equal to such portion of the Selling Concession set forth in the applicable AAU received by you with respect to such Securities or, in the case of clause (b), such Securities as exceed the number or amount specified in such Wire, or to require you to repurchase such Securities or, in the case of clause (b), such Securities as exceed the number or amount specified in such Wire, at a price equal to the total cost of such purchase, including transfer taxes, accrued interest, dividends, and commissions, if any.

5.3. Compliance with Regulation M. You represent that, at all times since you were invited to participate in the Offering, you have complied with the provisions of Regulation M applicable to the Offering, in each case as interpreted by the Commission and after giving effect to any applicable exemptions. If you have been notified in a Wire that the Underwriters may conduct passive market making in compliance with Rule 103 of Regulation M in connection with the Offering, you represent that, at all times since your receipt of such Wire, you have complied with the provisions of such Rule applicable to such Offering, as interpreted by the Commission and after giving effect to any applicable exemptions. You will comply with any additional provisions of Regulation M if and to the extent set forth in the Invitation Wire or other Wire.

5.4. Standby Underwritings. You authorize the Manager in its discretion, at any time on, or from time to time prior to, the expiration of the conversion right of convertible securities identified in the applicable AAU in the case of securities called for redemption, or the expiration of rights to acquire securities in the case of rights offerings, for which, in either case, standby underwriting arrangements have been made: (i) to purchase convertible securities or rights to acquire Securities for your account, in the open market or otherwise, on such terms as the Manager determines, and to convert convertible securities or exercise rights so purchased; and (ii) to offer and sell the underlying common stock or depositary shares for your account, in the open market or otherwise, for long or short account (for purposes of such commitment, such common stock or depositary shares being considered the equivalent of convertible securities or rights), on such terms consistent with the terms of the Offering set forth in the Prospectus or Offering Circular as the Manager determines. On demand, you will take up and pay for any securities so purchased for your account or you will deliver to the Manager against payment any securities so sold, as the case may be. During such period, you may offer and sell the underlying common stock or depositary shares, but only at prices set by the Manager from time to time, and any such sales will be subject to the Manager's right to sell to you the underlying common stock or depositary shares as above provided and to the Manager's right to reserve your securities purchased, received, or to be received upon conversion. You agree not to otherwise bid for, purchase, or attempt to induce others to purchase or sell, directly or indirectly, any convertible securities or rights or underlying common stock or depositary shares, *provided*, *however*, that no Underwriter will be prohibited from: (a) selling underlying common stock owned beneficially by such Underwriter on the day the convertible securities were first called for redemption, (b) converting convertible securities owned beneficially by such Underwriter on such date or selling underlying common stock issued upon conversion of convertible securities so owned, (c) exercising rights owned beneficially by such Underwriter on the record date for a rights offering, or selling the underlying common stock or depositary shares issued upon exercise of rights so owned, or (d) purchasing or selling convertible securities or rights or underlying common stock or depositary shares as a broker pursuant to unsolicited orders.

VI. PAYMENT AND SETTLEMENT

You will deliver to the Manager on the date and at the place and time specified in the applicable AAU (or on such later date and at such place and time as may be specified by the Manager in a subsequent Wire) the funds specified in the applicable AAU, payable to the order of Morgan Stanley & Co. LLC, for: (a) an amount equal to the Offering Price plus (if not included in the Offering Price) accrued interest, amortization of original issue discount or dividends, if any, specified in the Prospectus or Offering Circular, less the applicable Selling Concession in respect of the Firm Securities to be purchased by you, (b) an amount equal to the Offering Price plus (if not included in the Offering Price) accrued interest, amortization of original issue discount or dividends, if any, specified in the Prospectus or Offering Circular, less the applicable Selling Concession in respect of such of the Firm Securities to be purchased by you as will have been retained by or released to you for direct sale as contemplated by Section 3.6 hereof, or (c) the amount set forth or indicated in the applicable AAU, as the Manager will advise. You will make similar payment as the Manager may direct for Additional Securities, if

any, to be purchased by you on the date specified by the Manager for such payment. The Manager will make payment to the Issuer or Seller against delivery to the Manager for your account of the Securities to be purchased by you, and the Manager will deliver to you the Securities paid for by you which will have been retained by or released to you for direct sale. If the Manager determines that transactions in the Securities are to be settled through DTC or another clearinghouse facility and payment in the settlement currency is supported by such facility, payment for and delivery of Securities purchased by you will be made through such facilities, if you are a participant, or, if you are not a participant, settlement will be made through your ordinary correspondent who is a participant.

VII. EXPENSES

7.1. Management Fee. You authorize the Manager to charge your account as compensation for the Manager's and Co-Managers' services in connection with the Offering, including the purchase from the Issuer or Seller of the Securities, as the case may be, and the management of the Offering, the amount, if any, set forth as the management fee, global coordinators' fee, praecipium, or other similar fee in the applicable AAU. Such amount will be divided among the Manager and any Co-Managers named in the applicable AAU as they may determine. Each Underwriter acknowledges that such fees are being paid by the Underwriters, and are not a benefit received directly or indirectly from the Issuer of the type referred to in Section 11(e) of the 1933 Act.

7.2. Offering Expenses. You authorize the Manager to charge your account with your Underwriting Percentage of all expenses agreed to be paid by the Underwriters in the Underwriting Agreement and all expenses of a general nature incurred by the Manager and Co-Managers under the applicable AAU in connection with the Offering, including the negotiation and preparation thereof, or in connection with the purchase, carrying, marketing, sale and distribution of any securities under the applicable AAU and any Intersyndicate Agreement, including, without limitation, legal fees and expenses, transfer taxes, costs associated with approval of the Offering by FINRA, and the costs of currency transactions (including forward and hedging currency transactions) or, if permitted pursuant to Section 3.1 hereof, any other forward or hedging transactions (including interest rate swaps) entered into to facilitate settlement of the purchase of Securities permitted hereunder.

VIII. MANAGEMENT OF SECURITIES AND FUNDS

8.1. Advances; Loans; Pledges. You authorize the Manager to advance the Manager's own funds for your account, charging current interest rates, and to arrange loans for your account for the purpose of carrying out the provisions of the applicable AAU and any Intersyndicate Agreement, and in connection therewith, to hold or pledge as security therefor all or any securities which the Manager may be holding for your account under the applicable AAU and any Intersyndicate Agreement, to execute and deliver any notes or other instruments evidencing such advances or loans, and to give all instructions to the lenders with respect to any such loans and the proceeds thereof. The obligations of the Underwriters under loans arranged on their behalf will be several in proportion to their respective Original Underwriting Obligations, and not joint. Any lender is authorized to accept the Manager's instructions as to the disposition of the proceeds of any such loans. In the event of any such advance or loan, repayment thereof will, in the discretion of the Manager, be effected prior to making any remittance or delivery pursuant to Section 8.2, 8.3, or 9.2 hereof.

8.2. Return of Amount Paid for Securities. Out of payment received by the Manager for Securities sold for your account which have been paid for by you, the Manager will remit to you promptly an amount equal to the price paid by you for such Securities.

8.3. Delivery and Redelivery of Securities for Carrying Purposes. The Manager may deliver to you from time to time prior to the termination of the applicable AAU pursuant to Section 9.1 hereof against payment, for carrying purposes only, any Securities or Other Securities purchased by you under the applicable AAU or any Intersyndicate Agreement which the Manager is holding for sale for your account but which are not sold and paid for. You will redeliver to the Manager against payment any Securities or Other Securities delivered to you for carrying purposes at such times as the Manager may demand.

IX. TERMINATION; INDEMNIFICATION; CONTRIBUTION; SETTLEMENT

9.1. Termination. Each AAU will terminate at the close of business on the later of: (a) the date on which the Underwriters pay the Issuer or Seller for the Securities, and (b) 45 calendar days after the applicable Offering Date, unless sooner terminated by the Manager. The Manager may at its discretion by notice to you prior to the termination of such AAU alter any of the terms or conditions of the Offering to the extent permitted by Articles III and IV hereof, or terminate or suspend the effectiveness of Article V hereof, or any part thereof. No termination or suspension pursuant to this paragraph will affect the Manager's authority under Section 3.1 hereof to take actions in respect of the Offering or under Article V hereof to cover any short position incurred under such AAU or in connection with covering any such short position to require you to repurchase Securities as specified in Section 5.2 hereof. For the avoidance of doubt, unless otherwise agreed in a Wire or an Intersyndicate Agreement, the Manager's authority to purchase Securities or Other Securities, for long account, pursuant to Section 5.1 hereof, will terminate or be suspended upon the termination or suspension, as the case may be, of the applicable AAU (or any provision and or term thereof in respect of trading, price or offering restrictions as set forth in a Wire that is sent by the Manager following the time the Securities are released for sale to purchasers) or Article V or Section 5.1 hereof pursuant to this paragraph.

9.2. Delivery or Sale of Securities; Settlement of Accounts. Upon termination of each AAU, or prior thereto at the Manager's discretion, the Manager will deliver to you any Securities paid for by you pursuant to Article VI hereof and held by the Manager for sale pursuant to Section 3.4 or 3.5 hereof but not sold and paid for and any Securities or Other Securities that are held by the Manager for your account pursuant to the provisions of Article V hereof or any Intersyndicate Agreement. Notwithstanding the foregoing, at the termination of such AAU, if the aggregate initial Offering Price of any such Securities and the aggregate purchase price of any Other Securities so held and not sold and paid for does not exceed an amount equal to 20% of the aggregate initial Offering Price of the Securities, the Manager may, in its discretion, sell such Securities and Other Securities for the accounts of the several Underwriters, at such prices, on such terms, at such times, and in such manner as it may determine. Within the period specified by applicable FINRA Rules or, if no period is so specified, as soon as practicable after termination of such AAU, your account will be settled and

paid. The Manager may reserve from distribution such amount as the Manager deems advisable to cover possible additional expenses. The determination by the Manager of the amount so to be paid to or by you will be final and conclusive. Any of your funds under the Manager's control may be held with the Manager's general funds without accountability for interest.

Notwithstanding any provision of this Master AAU other than Section 10.12 hereof, upon termination of each AAU, or prior thereto at the Manager's discretion, the Manager may: (i) allocate to the accounts of the Underwriters the expenses described in Section 7.2 hereof and any losses incurred upon the sale of Securities or Other Securities pursuant to the applicable AAU or any Intersyndicate Agreement (including any losses incurred upon the sale of securities referred to in Section 5.4(ii) hereof), (ii) deliver to the Underwriters any unsold Securities or Other Securities purchased pursuant to Section 5.1 hereof or any Intersyndicate Agreement, and (iii) deliver to the Underwriters any unsold Securities purchased pursuant to the applicable Underwriting Agreement, in each case in the Manager's discretion. The only limitations on such discretion will be as follows: (a) no Underwriter that is not the Manager or a Co-Manager will bear more than its share of such expenses, losses, or Securities (such share will not exceed such Underwriter's Underwriting Percentage and will be determined *pro rata* among all such Underwriters based on their Underwriting Percentages), (b) no such Underwriter will receive Securities that, together with any Securities purchased by such Underwriter pursuant to Article VI (but excluding any Securities that such Underwriter is required to repurchase pursuant to Section 5.2 hereof) exceed such Underwriter's Original Underwriting Obligation, and (c) no Co-Manager will bear more than its share of such expenses, losses, or Securities (such share to be determined *pro rata* among the Manager and all Co-Managers based on their Underwriting Percentages). If any Securities or Other Securities returned to you pursuant to clause (ii) or (iii) above were not paid for by you pursuant to Article VI hereof, you will pay to the Manager an amount per security equal to the amount set forth in clause (i) of Article VI, in the case of Securities returned to you pursuant to clause (iii) above, or the purchase price of such securities, in the case of Securities or Other Securities returned to you pursuant to clause (ii) above.

9.3. Certain Other Expenses. You will pay your Underwriting Percentage of: (i) all expenses incurred by the Manager in investigating, preparing to defend, and defending against any action, claim, or proceeding which is asserted, threatened, or instituted by any party, including any governmental or regulatory body (each, an "**Action**"), relating to: (A) the Registration Statement, any Preliminary Prospectus or Prospectus (and any amendment or supplement thereto), any Preliminary Offering Circular or Offering Circular (and any amendment or supplement thereto), any Supplemental Materials, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, and any ABS Underwriter Derived Information used by any Underwriter other than the Manager, (B) the violation of any applicable restrictions on the offer, sale, resale, or purchase of Securities or Other Securities imposed by U.S. Federal or state laws or non-U.S. laws and the rules and regulations of any regulatory body promulgated thereunder or pursuant to the terms of the applicable AAU, the Underwriting Agreement, or any Intersyndicate Agreement, and (C) any claim that the Underwriters constitute a partnership, an association, or an unincorporated business or other separate entity, and (ii) any Losses (as defined in Section 9.4 hereof) incurred by the Manager in respect of any such Action, whether such Loss will be the result of a judgment or arbitrator's determination or as a result of any settlement agreed to by the Manager. Notwithstanding the foregoing, you will not be required to pay your Underwriting Percentage of any such expense or liability: (1) to the extent

that such expense or liability was caused by the Manager's gross negligence or willful misconduct as determined in a final judgment of a court of competent jurisdiction; (2) as to which, and to the extent, the Manager actually receives (a) indemnity pursuant to Section 9.4 hereof, (b) contribution pursuant to Section 9.5 hereof, (c) indemnity or contribution pursuant to the Underwriting Agreement, or (d) damages from an Underwriter for breach of its representations, warranties, agreements, or covenants contained in the applicable AAU; or (3) of the Manager (other than fees of Syndicate Counsel) that relates to a settlement entered into by the Manager on a basis that results in a settlement of such Action against it and fewer than all the Underwriters**.** None of the foregoing provisions of this Section 9.3 will relieve any defaulting or breaching Underwriter from liability for its defaults or breach. Failure of any party to give notice under Section 9.10 hereof will not relieve any Underwriter of an obligation to pay expenses pursuant to the provisions of this Section 9.3.

9.4. Indemnification. Notwithstanding any settlement or the termination of the applicable AAU, you agree to indemnify and hold harmless each other Underwriter and each person, if any, who controls any such Underwriter within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act (each, an "**Indemnified Party**"), to the extent and upon the terms which you agree to indemnify and hold harmless any of the Issuer, the Guarantor, the Seller, any person controlling the Issuer, the Guarantor, the Seller, its directors, and, in the case of a Registered Offering, its officers who signed the Registration Statement and, in the case of an Offering other than a Registered Offering, its officers, in each case as set forth in the Underwriting Agreement. You further agree to indemnify and hold harmless each Indemnified Party from and against any and all losses, claims, damages, liabilities, and expenses not reimbursed pursuant to Section 9.3 hereof (collectively, "**Losses**") related to, arising out of, or in connection with the breach or violation by you of the terms of Section 3.3 hereof, including any and all Losses under Section 5 of the 1933 Act, and any litigation, investigation, and proceeding (collectively, "**Litigation**") relating to any of the foregoing. You will also reimburse each such Indemnified Party upon demand for all expenses, including fees and expenses of counsel, as they are incurred, in connection with investigating, preparing for, or defending any of the foregoing. You will indemnify and hold harmless each Indemnified Party from and against any and all Losses related to, arising out of, or in connection with, any untrue statement or alleged untrue statement of a material fact contained in any Underwriter Free Writing Prospectus, Manager-Approved Communication or Supplemental Material used by you, or any research report in the form of a written communication (as defined in Rule 405 under the 1933 Act) used by you in reliance upon the penultimate sentence of Section 2(a)(3) of the 1933 Act prior to completion of the distribution of an initial public offering (a "**Written Research Report**"), or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and any Litigation relating to any of the foregoing, and to reimburse each such Indemnified Party upon demand for all expenses, including fees and expenses of counsel, as they are incurred, in connection with investigating, preparing for, or defending any of the foregoing. In addition, you will indemnify and hold harmless each Indemnified Party from and against any and all Losses related to, arising out of, or in connection with any untrue statement or alleged untrue statement of a material fact contained in any ABS Underwriter Derived Information used by you, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and any Litigation relating to any of the foregoing, and to reimburse each such Indemnified Party upon demand for all expenses, including fees and expenses of counsel, as they

are incurred, in connection with investigating, preparing for, or defending any of the foregoing; *provided*, *however*, that any Losses, joint or several, paid or incurred by any Underwriter, arising out of or based upon any ABS Underwriter Derived Information which was used only by such Underwriter, or in connection with the preparation of which an Underwriter is found to have acted with gross negligence or willful misconduct in a final judgment of a court of competent jurisdiction, will be paid solely by such Underwriter.

Each Underwriter will further indemnify and hold harmless any investment banking firm identified in a Wire as the qualified independent underwriter as defined in FINRA Rule 5121 or any successor rule thereto (in such capacity, a "**QIU**") for an Offering and each person, if any, who controls such QIU within the meaning of either Section 15 of the 1933 Act or Section 20 of the 1934 Act, from and against any and all Losses related to, arising out of, or in connection with such investment banking firm's activities as QIU for the Offering. Each Underwriter will reimburse such QIU for all expenses, including fees and expenses of counsel, as they are incurred, in connection with investigating, preparing for, and defending any Action related to, arising out of, or in connection with such QIU's activities as a QIU for the Offering. Each Underwriter will be responsible for its Underwriting Percentage of any amount due to such QIU on account of the foregoing indemnity and reimbursement. Such QIU will have no additional liability to any Underwriter or otherwise as a result of its serving as QIU in connection with the Offering. To the extent the indemnification provided to a QIU under this Section 9.4 is unavailable to such QIU or is insufficient in respect of any Losses related thereto, whether as a matter of law or public policy or as a result of the default of any Underwriter in performing its obligations under this Section 9.4, each other Underwriter will contribute to the amount paid or payable by such QIU as a result of such Losses related thereto in proportion to its Underwriting Percentage.

For the avoidance of doubt, references to an "Underwriter" or "you" in this Section 9.4 shall include the Manager in its role as an Underwriter.

9.5. Contribution. Notwithstanding any settlement or the termination of the applicable AAU, you will pay upon request of the Manager, as contribution, your Underwriting Percentage of any Losses, joint or several, paid or incurred by any Indemnified Party to any person other than an Indemnified Party, arising out of or in connection with the breach or violation of the terms of Section 3.3 hereof, including any and all Losses under Section 5 of the 1933 Act, and any Litigation relating to the foregoing. Further, you will pay upon request of the Manager, as contribution, your Underwriting Percentage of any Losses, joint or several, paid or incurred by any Indemnified Party to any person other than an Indemnified Party, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, any Preliminary Prospectus or Prospectus (and any amendment or supplement thereto), any Preliminary Offering Circular or Offering Circular (and any amendment or supplement thereto), any Supplemental Materials, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, any other materials prepared or used by an Underwriter in accordance with Section 3.3 hereof, or any Underwriter Free Writing Prospectus, Manager-Approved Communication or Written Research Report or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading (other than an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information

furnished to the Company In Writing by the Underwriter on whose behalf the request for contribution is being made expressly for use therein), or any act or omission to act or any alleged act or omission to act by the Manager or, if applicable, a Representative, as the Manager or a Representative, in connection with any transaction contemplated by this Agreement or undertaken in preparing for the purchase, sale, and delivery of the Securities (provided, that you will not be required to pay in any such case to the extent that any such Loss resulted from the Manager's or such Representative's gross negligence or willful misconduct as determined in a final judgment of a court of competent jurisdiction), and your Underwriting Percentage of any legal or other expenses, including fees and expenses of counsel, as they are incurred, reasonably incurred by the Indemnified Party (with the approval of the Manager) on whose behalf the request for contribution is being made in connection with investigating or defending any such Loss or any action in respect thereof; *provided*, *however*, that no request will be made on behalf of any Indemnified Party guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) from any Indemnified Party who was not guilty of such fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act); *provided*, *further*, that any Losses, joint or several, paid or incurred by any Indemnified Party, arising out of or based upon an Underwriter's Underwriter Free Writing Prospectus, Manager-Approved Communication, Written Research Report or Supplemental Material, will be paid by only the Underwriters that used such Underwriter Free Writing Prospectus, Manager-Approved Communication, Written Research Report or Supplemental Material, as the case may be (the "**Contributing Underwriters**"), and the amount to be paid by each Contributing Underwriter will be determined *pro rata* among the Contributing Underwriters based on their Underwriting Percentages. None of the foregoing provisions of this Section 9.5 will relieve any defaulting or breaching Underwriter from liability for its defaults or breach.

In addition, you will pay upon request of the Manager, as contribution, your Underwriting Percentage of any Losses, joint or several, paid or incurred by any Indemnified Party to any person other than an Indemnified Party, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any ABS Underwriter Derived Information, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading (other than an untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information furnished to the Company In Writing by the Underwriter on whose behalf the request for contribution is being made expressly for use therein) and your Underwriting Percentage of any expenses, including fees and expenses of counsel, as they are incurred, reasonably incurred by the Indemnified Party (with the approval of the Manager) on whose behalf the request for contribution is being made in connection with investigating, preparing for, or defending any such Loss or any action in respect thereof; *provided*, *however*, that any Losses, joint or several, paid or incurred by any Underwriter, arising out of or based upon any ABS Underwriter Derived Information which was used only by such Underwriter, or in connection with the preparation of which the Underwriter is found to have acted with gross negligence or willful misconduct in a final judgment of a court of competent jurisdiction, will be paid solely by the Underwriter.

For the avoidance of doubt, references to an "Underwriter" or "you" in this Section 9.5 shall include the Manager in its role as an Underwriter.

9.6. Separate Counsel. If any Action is asserted or commenced pursuant to which the indemnity provided in Section 9.4 hereof or the right of contribution provided in Section 9.5 hereof may apply, the Manager may take such action in connection therewith as it deems necessary or desirable, including retention of counsel for the Underwriters ("**Syndicate Counsel**"), and in its discretion separate counsel for any particular Underwriter or group of Underwriters, and the fees and disbursements of any counsel so retained will be allocated among the several Underwriters as determined by the Manager. Any such Syndicate Counsel retained by the Manager will be counsel to the Underwriters as a group and, in the event that: (a) the Manager settles any Action on a basis that results in the settlement of such Action against it and fewer than all the Underwriters, or (b)(i) a conflict develops between the Manager and the other Underwriters, or (ii) differing defenses are available to the other Underwriters and not available to the Manager, and as a result of either (b)(i) or (b)(ii) such Syndicate Counsel concludes that it is unable to continue to represent the Manager and the other Underwriters, then in each such case, after notification to the Manager and the other Underwriters, Syndicate Counsel will remain counsel to the other Underwriters and will withdraw as counsel to the Manager. The Manager hereby consents to such arrangement and undertakes to take steps to: (i) ensure that any engagement letters with Syndicate Counsel are consistent with such arrangement; (ii) issue a notice to all other Underwriters promptly following receipt of any advice (whether oral or written) from Syndicate Counsel regarding its inability to represent the Manager and the other Underwriters jointly; and (iii) facilitate Syndicate Counsel's continued representation of the other Underwriters. Any Underwriter may elect to retain at its own expense its own counsel and, on advice of such counsel, may settle or consent to the settlement of any such Action, but only in compliance with Section 9.7 hereof, and in each case, only after notification to every other Underwriter. The Manager may settle or consent to the settlement of any such Action, but only in compliance with Section 9.7 hereof.

9.7. Settlement of Actions. Neither the Manager nor any other Underwriter party to this Master AAU may settle or agree to settle any Action related to or arising out of the Offering, nor may any other Underwriter settle or agree to settle any such Action without the consent of the Manager, nor may any other Underwriter seek the Manager's consent to any such settlement agreement, nor may the Manager consent to any such settlement agreement, unless: (A) the Manager, together with such other Underwriters as constitute a majority in aggregate interest based on the Underwriting Percentage of the Underwriters as a whole (including the Manager's interest), approve the settlement of such Action, in which case the Manager is authorized to settle for all Underwriters, *provided*, *however*, that the settlement agreement results in the settlement of the Action against all Underwriters raised by the plaintiffs party thereto; or (B) (i) such settlement agreement expressly provides that the non-settling Underwriters will be given a judgment credit (or credit in settlement) with respect to all such Actions for which the non-settling Underwriters may be found liable (or will pay in subsequent settlement), in an amount that is the greatest of: (x) the dollar amount paid in such initial settlement to settle such Actions, (y) the proportionate share of the settling Underwriter's fault in respect of common damages arising in connection with such Actions as proven at trial, if applicable, or (z) the amount by which the settling Underwriter would have been required to make contribution had it not settled, under Sections 9.5 and 11.2 hereof in respect of the final non-appealable judgment (or settlement) subsequently entered into by the non-settling Underwriters (such greatest amount of

either (x), (y), or (z), the "**Judgment Credit**");[3] (ii) such settlement agreement expressly provides that in the event that the applicable court does not approve the Judgment Credit as part of the settlement, the settlement agreement will automatically terminate; and (iii) the final judgment entered with respect to the settlement agreement contains the Judgment Credit.

9.8. Survival. Except as set forth in the last sentence of Section 9.1, your agreements contained in Article V and Sections 3.1, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, and 11.2 hereof will remain operative and in full force and effect regardless of any termination of an AAU and: (a) any termination of the Underwriting Agreement, (b) any investigation made by or on behalf of any Underwriter or any person controlling any Underwriter or by or on behalf of the Issuer, the Guarantor, the Seller, its directors or officers, or any person controlling the Issuer, the Guarantor or the Seller, and (c) acceptance of any payment for any Securities.

9.9. Replacement of Manager. If at any time after any Action is brought the Manager settles the Action on a basis that results in the settlement of such Action against it and fewer than all the Underwriters (whether or not such settlement complies with Section 9.7 hereof), the Manager will, at such time, for purposes of Sections 9.3, 9.4, 9.5, 9.6, and 9.7 hereof, cease to be the Manager. The non-settling Underwriters will, by vote of holders of a majority of the Underwriting Percentage of such non-settling Underwriters, select a new Manager, which will become the new "**Manager**" for all purposes of Sections 9.3, 9.4., 9.5, 9.6, and 9.7 hereof as well as this section; *provided* that the non-settling Underwriter(s) with the largest Underwriting Percentage will act as Manager until such vote occurs and a new Manager is selected. [4]

Notwithstanding such a settlement, the Manager and the other settling Underwriters will remain obligated to the non-settling Underwriters to assist and cooperate fully, in good faith, and at their own expense, in the defense of any Actions, including, without limitation, by providing, upon reasonable request of any non-settling Underwriter, and without the necessity of court process, access to or copies of all relevant records, and reasonable access to all witnesses under control of the Manager or the other settling Underwriters, for the purpose of interviews, depositions, and testimony at trial, subject in each case to the applicable legal and procedural obligations of such Manager and such other settling Underwriter.

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[3] Seeks to ensure that there is no harm to non-settling Underwriter due to settlement. For example, assume that plaintiffs have suffered $1,000 in damage in a case in which the Underwriters are 50% at fault and other defendants, all of whom are insolvent, are 50% at fault. Further assume that there were 2 Underwriters, each which underwrote 50% of the offering, and they were equally at fault. If neither Underwriter settles, then each would be required to pay $500 to satisfy the $1,000 verdict for which they are jointly and severally liable (or, if one paid $1,000, Section 9.5 would obligate the other to contribute $500 towards such payment). If the first Underwriter settles for $100, then the second Underwriter will obtain a judgment credit of $500, being equal to the greater of: (a) settlement amount ($100), (b) the first Underwriter's fault ($250), and (c) the amount which the settling Underwriters would have been required to contribute under the contribution provisions ($500). This formula ensures that the second Underwriter is not harmed by the settlement. By contrast, the judgment credit applied in WorldCom ignored clause (c), resulting in a credit of only $250 and leading the non-settling Underwriter to pay $750, or $250 more than had the first Underwriter not settled.

[4] Permits new Manager to replace settling Manager and manage the litigation–related provisions of this agreement.

In addition, if at any time, the Manager is unwilling or unable for any reason to assume or discharge its duties as Manager under the applicable AAU, whether resulting from its insolvency (voluntary or involuntary), resignation or otherwise, to the extent permitted by applicable law, the remaining Underwriters will, by vote of holders of a majority of the Underwriting Percentage of such Underwriters, be entitled to select a new Manager, which will become the new Manager for all purposes under this Agreement. [5]

Notwithstanding the foregoing, a Manager replaced pursuant to this Section 9.9 shall continue to benefit from and be subject to all other terms and conditions of this Agreement applicable to an Underwriter.

9.10. Notice. When the Manager receives notice of the assertion of any Action to which the provisions of Sections 9.4, 9.5, 9.6, or 9.7 hereof would apply, it will give prompt notice thereof to each Underwriter, and whenever an Underwriter receives notice of the assertion of any claim or commencement of any Action to which the provisions of Sections 9.4, 9.5, 9.6, or 9.7 hereof would apply, such Underwriter will give prompt notice thereof to the Manager. The Manager also will furnish each Underwriter with periodic reports, at such times as it deems appropriate, as to the status of such Action, and the actions taken by it in connection therewith. If the Manager or any other Underwriter engages in any settlement discussion that involves or contemplates settlement on any basis other than settlement of all Actions against all Underwriters on a *pro rata* basis according to their Underwriting Percentages, the Manager (or other Underwriter engaging in such discussions) will notify all other Underwriters promptly and provide reasonable details about such discussions.

X. REPRESENTATIONS AND COVENANTS OF UNDERWRITERS

10.1. Knowledge of Offering. You acknowledge that it is your responsibility to examine the Registration Statement, the Prospectus, or the Offering Circular, as the case may be, any amendment or supplement thereto relating to the Offering, any Preliminary Prospectus or Preliminary Offering Circular, and the material, if any, incorporated by reference therein, any Issuer Free Writing Prospectus, any Supplemental Materials, and any ABS Underwriter Derived Information, and you will familiarize yourself with the terms of the Securities, any applicable Indenture, and the other terms of the Offering thereof which are to be reflected in the Prospectus or the Offering Circular, as the case may be, and the applicable AAU and Underwriting Agreement. The Manager is authorized, with the advice of counsel for the Underwriters, to approve on your behalf any amendments or supplements to the documents described in the preceding sentence.

10.2. Accuracy of Underwriters' Information. You confirm that the information that you have given and are deemed to have given in response to the Underwriters' Questionnaire attached as Exhibit A hereto (and to any other questions addressed to you in the Invitation Wire or other Wires), which information has been furnished to the Issuer for use in the Registration Statement, Prospectus, or Offering Circular, as the case may be, or has otherwise been relied upon in connection with the Offering, is complete and accurate. You will notify the Manager immediately of any development before the termination of the applicable AAU which makes untrue or incomplete any information that you have given or are deemed to have given in response to the Underwriters' Questionnaire (or such other questions).

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5 Permits new Manager to replace insolvent Manager and manage all aspects of this MAAU.

10.3. Name; Address. Unless you have promptly notified the Manager In Writing otherwise, your name as it should appear in the Registration Statement, Prospectus or Offering Circular and any advertisement, if different, and your address, are as set forth on the signature pages hereof.

10.4. Compliance with Capital Requirements. You represent that your commitment to purchase the Securities will not result in a violation of the financial responsibility requirements of Rule 15c3-1 under the 1934 Act or of any similar provision of any applicable rules of any securities exchange to which you are subject or, if you are a financial institution subject to regulation by the Board of Governors of the U.S. Federal Reserve System, the U.S. Comptroller of the Currency, or the U.S. Federal Deposit Insurance Corporation, will not place you in violation of any applicable capital requirements or restrictions of such regulator or any other regulator to which you are subject.

10.5. FINRA Requirements. (A) You represent that you are a member in good standing of FINRA, or a non-U.S. bank, broker, dealer, or institution not eligible for membership in FINRA or a Bank.

(i) If you are a member of FINRA, you will comply with all applicable rules of FINRA in respect of any Offering of Securities, including, without limitation, the requirements of FINRA Rules 5110, 5121, 5130, 5131 and 5141 (to the extent any or all such rules are applicable to the particular Offering).

(ii) If you are a non-U.S. bank, broker, dealer, or other non-U.S. institution not eligible for membership in FINRA, you represent that you are not required to be registered as a broker or dealer under the 1934 Act and you will not make any offers or sales of the Securities in, or to nationals or residents of, the United States, its territories, or its possessions, except to the extent permitted by Rule 15a-6 under the 1934 Act (or any successor rule thereto adopted by the SEC). In making any offers or sales of the Securities you also agree to comply with the requirements of the following FINRA rules (including any successor rules thereto adopted by FINRA): (a) to the extent that you are acting, in respect of offers or sales of the Securities, as a “conduit” for, or are receiving in connection with such offers and sales any selling commissions, discounts, allowances or other compensation from, or are otherwise being directed with respect to allocations or disposition of the Securities by, a FINRA member, FINRA Rule 5130 and FINRA Rule 5141 as though you are a member of FINRA, and (b) NASD Conduct Rule 2420(c), as that Rule applies to a non-member broker/dealer in a non-U.S. country.

(iii) If you are a Bank, you agree that (a) to the extent you are acting, in respect of offers or sales of the Securities, as a "conduit" for, or are receiving in connection with such offers and sales any selling commissions, discounts, allowances or other compensation from, or are otherwise being directed with respect to allocations or disposition of the Securities by, a FINRA member, you will comply with FINRA Rules 5130 and 5141 as though you are a member of FINRA, and (b) you will not accept any portion of the management fee paid by the Underwriters with respect to any Offering or, in connection with any Offering of Securities that do not constitute "exempted securities" within the meaning of Section 3(a)(12) of the 1934 Act, or purchase any Securities at a discount from the offering price from any Underwriter or Dealer or otherwise accept any Fees and Commissions from any Underwriter or Dealer, which in any such case is not permitted under FINRA rules (including, without limitation, NASD Conduct Rule 2420 or any successor rule thereto adopted by FINRA) or would subject you to registration and regulation as a "broker" or "dealer" under Section 3(a)(4) or 3(a)(5) of the 1934 Act.

(B) With respect to any Offering of Securities that constitutes a "new issue" under FINRA Rule 5131, you agree that, with respect to any Securities trading at a premium to the public offering price that are returned by a purchaser (the "**Returned Securities**") to you after secondary market trading commences, you will promptly consult with the Manager or Co-Manager that has been appointed to manage the syndicate short position for that Offering (the "**Designated Syndicate Agent**") to determine the appropriate treatment of the Returned Securities under FINRA Rule 5131(d)(3), and agree to (i) return the Returned Securities to the Designated Syndicate Agent if directed to do so by that entity, or (ii) if no such direction has been provided by the Designated Syndicate Agent, to comply with the provisions of FINRA Rule 5131(d)(3)(B) with respect to the disposition of the Returned Securities.

10.6. FATCA Certification. If you are a Foreign Financial Institution ("**FFI**") as that term is defined pursuant to FATCA (as defined below) (including a U.S. branch of a non-U.S. bank), you represent that you are not, and have not been identified by the U.S. Internal Revenue Service ("**IRS**") as, a nonparticipating FFI as that term is defined pursuant to FATCA. Unless otherwise agreed, promptly following your acceptance of an AAU for an Offering, but not later than such Offering's Pricing Date, you will provide us such documents (including an IRS Form W-8BEN-E or an IRS Form W-8BEN if the instructions to the IRS Form W-8BEN-E have not been released) as may be necessary to confirm that no tax is required to be withheld under FATCA in respect of payments to you that we make or are deemed to make for U.S. federal income tax purposes. If we are required to make any deduction or withholding pursuant to or on account of FATCA in respect of payments to you that we make or are deemed to make for U.S. federal income tax purposes, and we do not so deduct or withhold and a liability resulting from such failure to withhold or deduct is assessed directly against us, then you will indemnify us therefor (without duplication of any applicable indemnification obligation, and without triggering any contribution obligation of any other Underwriter, with respect thereto under Article IX hereof) and promptly pay us the amount of such liability (including any related liability for interest and penalties). "**FATCA**" means sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986 (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into thereunder, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation thereof.

10.7. Further State Notice. The Manager will file a Further State Notice with the Department of State of New York, if required.

10.8. Compliance with Rule 15c2-8. In the case of a Registered Offering and any other Offering to which the provisions of Rule 15c2-8 under the 1934 Act are made applicable pursuant to the AAU or otherwise, you will comply with such Rule in connection with the Offering. In the case of an Offering other than a Registered Offering, you will comply with applicable Federal and state laws and the applicable rules and regulations of any regulatory body promulgated thereunder governing the use and distribution of offering circulars by underwriters.

10.9. Discretionary Accounts. In the case of a Registered Offering of Securities issued by an Issuer that was not, immediately prior to the filing of the Registration Statement, subject to the requirements of Section 13(d) or 15(d) of the 1934 Act, you will not make sales to any account over which you exercise discretionary authority in connection with such sale, except as otherwise permitted by the applicable AAU for such Offering.

10.10. Offering Restrictions. You will not make any offers or sales of Securities or any Other Securities in jurisdictions outside the United States except under circumstances that will result in compliance with (i) applicable laws, including private placement requirements, in each such jurisdiction and (ii) the restrictions on offers or sales set forth in any AAU or the Prospectus, Preliminary Prospectus, Offering Circular, or Preliminary Offering Circular, as the case may be.

It is understood that, except as specified in the Prospectus or Offering Circular or applicable AAU, no action has been taken by the Manager, the Issuer, the Guarantor, or the Seller to permit you to offer Securities in any jurisdiction other than the United States, in the case of a Registered Offering, where action would be required for such purpose.

10.11. Representations, Warranties, and Agreements. You will make to each other Underwriter participating in an Offering the same representations, warranties, and agreements, if any, made by the Underwriters to the Issuer, the Guarantor, or the Seller in the applicable Underwriting Agreement or any Intersyndicate Agreement, and you authorize the Manager to make such representations, warranties, and agreements to the Issuer, the Guarantor, or the Seller on your behalf.

10.12. Limitation on the Authority of the Manager to Purchase and Sell Securities for the Account of Certain Underwriters. Notwithstanding any provision of this AAU authorizing the Manager to purchase or sell any Securities or Other Securities (including arranging for the sale of Contract Securities) or over-allot in arranging sales of Securities for the accounts of the several Underwriters, the Manager may not, in connection with the Offering of any Securities, make any such purchases, sales, and/or over-allotments for the account of any Underwriter that, not later than its acceptance of the Invitation Wire relating to such Offering, has advised the Manager that, due to its status as, or relationship to, a bank or bank holding company such purchases, sales, and/or over-allotments are prohibited by applicable law. If any Underwriter so advises the Manager, the Manager may allocate any such purchases, sales, and over-allotments (and the related expenses) which otherwise would have been allocated to your account based on your respective Underwriting Percentage to your account based on the ratio of your Original Underwriting Obligation to the Original Underwriting Obligations of all Underwriters other than the advising Underwriter or Underwriters, or in such other manner as the Manager will determine.

10.13. Agreement Regarding Oral Due Diligence. By participating in an Offering, each Underwriter agrees that it, each of its affiliates participating in an Offering as Underwriter or financial intermediary and each controlling person of it and each such participating affiliate are bound by the Agreement Regarding Oral Due Diligence currently in effect between Morgan Stanley and the accounting firm or firms that participate in oral due diligence in such offering.

XI. DEFAULTING UNDERWRITERS

11.1. Effect of Termination. If the Underwriting Agreement is terminated as permitted by the terms thereof, your obligations hereunder with respect to the Offering of the Securities will immediately terminate except: (a) as set forth in Section 9.8 hereof, (b) that you will remain liable for your Underwriting Percentage (or such other percentage as may be specified pursuant to Section 9.2 hereof) of all expenses, and for any purchases or sales which may have been made for your account pursuant to the provisions of Article V hereof or any Intersyndicate Agreement, and (c) that such termination will not affect any obligations of any defaulting or breaching Underwriter.

11.2. Sharing of Liability. If any Underwriter defaults in its obligations: (a) pursuant to Section 5.1, 5.2 or 5.4 hereof, (b) to pay amounts charged to its account pursuant to Section 7.1, 7.2, or 8.1 hereof, or (c) pursuant to Section 9.2, 9.3, 9.4, 9.5, 9.6, or 11.1 hereof, you will assume your proportionate share (determined on the basis of the respective Underwriting Percentages of the non-defaulting Underwriters) of such obligations, but no such assumption will relieve any defaulting Underwriter from liability to the non-defaulting Underwriters, the Issuer, the Guarantor, or the Seller for its default.

11.3. Arrangements for Purchases. The Manager is authorized to arrange for the purchase by others (including the Manager or any other Underwriter) of any Securities not purchased by any defaulting Underwriter in accordance with the terms of the applicable Underwriting Agreement or, if the applicable Underwriting Agreement does not provide arrangements for defaulting Underwriters, in the discretion of the Manager. If such arrangements are made, the respective amounts of Securities to be purchased by the remaining Underwriters and such other person or persons, if any, will be taken as the basis for all rights and obligations hereunder, but this will not relieve any defaulting Underwriter from liability for its default.

XII. MISCELLANEOUS

12.1. Obligations Several. Nothing contained in this Master AAU or any AAU constitutes you partners with the Manager or with the other Underwriters, and the obligations of you and each of the other Underwriters are several and not joint. Each Underwriter elects to be excluded from the application of Subchapter K, Chapter 1, Subtitle A, of the Code. Each Underwriter authorizes the Manager, on behalf of such Underwriter, to execute such evidence of such election as may be required by the IRS.

12.2. Liability of Manager. The Manager will not be liable to you for any act or omission, except for obligations expressly assumed by the Manager in the applicable AAU.

12.3. Termination of Master AAU. This Master AAU may be terminated by either party hereto upon five business days' written notice to the other party; *provided*, *however*, that with respect to any Offering for which an AAU was sent prior to such notice, this Master AAU as it applies to such Offering will remain in full force and effect and will terminate with respect to such Offering in accordance with Section 9.1 hereof.

12.4. Governing Law; Waiver of Jury Trial. This Master AAU and each AAU will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed in the State, without giving effect to principles of conflicts of law. You hereby irrevocably: (a) submit to the jurisdiction of any court of the State of New York located in the City of New York or the U.S. District Court for the Southern District of the State of New York for the purpose of any suit, action, or other proceeding arising out of this Master AAU, or any of the agreements or transactions contemplated hereby (each, a "**Proceeding**"), (b) agree that all claims in respect of any Proceeding may be heard and determined in any such court, (c) waive, to the fullest extent permitted by law, any immunity from jurisdiction of any such court or from any legal process therein, (d) agree not to commence any Proceeding other than in such courts, and (e) waive, to the fullest extent permitted by law, any claim that such Proceeding is brought in an inconvenient forum. Each party hereto hereby irrevocably waives any right that it may have to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Master AAU and each AAU or the transactions contemplated thereby.

12.5. Amendments. This Master AAU may be amended from time to time by consent of the parties hereto. Your consent will be deemed to have been given to an amendment to this Master AAU, and such amendment will be effective, five business days following written notice to you of such amendment if you do not notify us In Writing prior to the close of business on such fifth business day that you do not consent to such amendment. Upon effectiveness, the provisions of this Master AAU as so amended will apply to each AAU thereafter entered into, except as otherwise specifically provided in any such AAU.

12.6. Notices. Any notice to any Underwriter will be deemed to have been duly given if mailed, sent by wire, telecopy or electronic transmission or other written communication, or delivered in person to such Underwriter at the address set forth in its Underwriters' Questionnaire, or if no address is provided in an Underwriters' Questionnaire, then at the address set forth in reports filed by such Underwriter with FINRA. Any such notice will take effect upon receipt thereof.

12.7. Severability. In case any provision in this Master AAU is deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

12.8. Counterparts. This Master AAU may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which taken together constitute one and the same instrument. Transmission by telecopy of an executed counterpart of this Master AAU will constitute due and sufficient delivery of such counterpart.

Please confirm your acceptance of this Master AAU by signing and returning to us the enclosed duplicate copy hereof.

Morgan Stanley & Co. LLC

By: _____
Name: _____
Title: _____
(Authorized Officer)

Confirmed and accepted
as of _____, 20____

_____
(Legal Name of Underwriter)

_____
(Address)

By: _____
Name: _____
Title: _____
(Authorized Officer)

(*If person signing is not an officer or a partner, please attach instrument of authorization)*

GUIDE TO DEFINED TERMS

Term	Section Reference
1933 Act	1.1
1934 Act	3.5
AAU	Foreword
ABS Underwriter Derived Information	2.1
Action	9.3
Additional Securities	1.1
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Co-Managers	1.1
Commission	2.1
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Dealer	3.5
Designated Syndicate Agent	10.5
DTC	5.2
FATCA	10.6
Fees and Commissions	1.1
FFI	10.6
FINRA	3.1
Firm Securities	1.1
Free Writing Prospectus	2.1
Guarantor	1.1
In Writing	1.2
Indemnified Party	9.4
Indenture	1.1
International Offering	1.1
Intersyndicate Agreement	2.3
Invitation Wire	Foreword
IRS	10.6
Issuer	1.1
Issuer Free Writing Prospectus	3.3
Issuer Information	3.3
Judgment Credit	9.7
Litigation	9.4
Losses	9.4
Manager	1.1
Manager Approved Communication	3.3
Master AAU	Foreword
Offering	Foreword
Offering Circular	2.2
Offering Date	3.2
Offering Price	1.1
Original Underwriting Obligation	1.1
Preliminary Offering Circular	2.2

Preliminary Prospectus	2.1
Pricing Date	1.1
Proceeding	12.4
Prospectus	2.1
Purchase Price	1.1
QIU	9.4
Reallowance	1.1
Registered Offering	2.1
Registration Statement	2.1
Regulation M	5.1
Representative	1.1
Returned Securities	10.5
Securities	1.1
Securities Offering Reform Release	2.1
Seller	1.1
Selling Concession	1.1
Settlement Date	1.1
Supplemental Materials	3.3
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EXHIBIT A

UNDERWRITERS' QUESTIONNAIRE

In connection with each Offering governed by the Morgan Stanley & Co. LLC Master Agreement Among Underwriters dated July 15, 2014, except as otherwise indicated in a timely acceptance of the Invitation Wire pursuant to Section 1.2 of the Master Agreement Among Underwriters ("**Master AAU**") or already expressly disclosed in the Preliminary Prospectus or Preliminary Offering Circular, as the case may be, each Underwriter participating in such Offering severally advises the Issuer and the other participating Underwriters (all capitalized terms used herein and not otherwise defined herein will have the meanings given to them in the Master AAU) as follows:

(a) neither such Underwriter nor any of its directors, officers, or partners have a material relationship, as "material" is defined in Regulation C under the 1933 Act, with the Issuer, the Guarantor, or the Seller;

(b) if the Registration Statement is on Form S-1, neither such Underwriter nor any "group" (as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934) of which such Underwriter is aware is the beneficial (as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934) owner of more than 5% of any class of voting securities of the Issuer or Guarantor, nor does such Underwriter have any knowledge that more than 5% of any class of voting securities of the Issuer or the Guarantor is held or to be held subject to any voting trust or other similar agreement, nor does such Underwriter have any knowledge that more than 5% of any class of voting securities of the Issuer or the Guarantor is held or to be held subject to any voting trust or other similar agreement;

(c) other than as may be stated in the Morgan Stanley & Co. LLC Master Agreement Among Underwriters dated July 15, 2014, the applicable AAU, the Intersyndicate Agreement or dealer agreement, if any, the Prospectus, the Registration Statement, or the Offering Circular, such Underwriter does not know and has no reason to believe that there is an intention to over-allot or that the price of any security may be stabilized to facilitate the offering of the Securities;

(d) other than as stated in the Invitation Wire, such Underwriter does not know of (i) any other discounts or commissions to be allowed or paid to the Underwriters or of any other items that would be deemed by the Financial Industry Regulatory Authority, Inc. ("**FINRA**") to constitute underwriting compensation for purposes of FINRA Rule 5110, or (ii) any discounts or commissions to be allowed or paid to dealers, including all cash, securities, contracts, or other consideration to be received by any dealer in connection with the sale of the Securities;

(e) such Underwriter has not prepared any report or memorandum for external use in connection with the Offering;

(f) if the offer and sale of the Securities are to be registered under the 1933 Act pursuant to a Registration Statement on Form S-1 or Form F-1, such Underwriter has not within the past 12 months prepared or had prepared for such Underwriter any engineering, management, or similar report or memorandum relating to broad aspects of the business, operations, or products of the Issuer or the Guarantor. The immediately preceding sentence does not apply to reports solely comprised of recommendations to buy, sell, or hold the Issuer's or the Guarantor's securities, unless such recommendations have changed within the past six months, or to information already contained in documents filed with the Commission;

(g) in the case of Registered Offerings and Offerings of Securities exempt under Section 3 of the 1933 Act, such Underwriter does not have a "conflict of interest" with the Issuer or the Guarantor under FINRA Rule 5121. In that regard, such Underwriter specifically confirms that, at the time of such Underwriter's participation in the subject Offering, (A) such Underwriter is not issuing the Securities in such Offering; (B) neither the Issuer nor the Guarantor controls, is controlled by or is under common control (as the term "control" is defined in FINRA Rule 5121(f)(6)) with such Underwriter or such Underwriter's "associated persons" (as such term is defined by FINRA); (C) less than five percent of the net proceeds of the Offering, not including Fees and Commissions, are intended to be: (i) used to reduce or retire the balance of a loan or credit facility extended by such Underwriter, its "affiliates" and its "associated persons" (as such terms are defined by FINRA), in the aggregate; or (ii) otherwise directed to such Underwriter, its affiliates and associated persons, in the aggregate, and (D) as a result of such Offering and any transactions contemplated at the time of such Offering: (i) such Underwriter will not become an affiliate of the Issuer or Guarantor; (ii) such Underwriter will not become publicly owned; and (iii) the Issuer or Guarantor will not become a FINRA member or form a broker-dealer subsidiary. Furthermore, such Underwriter specifically confirms that such Underwriter does not, (a) beneficially own 10% or more of the Issuer's or Guarantor's outstanding "common equity", "preferred equity" or "subordinated debt" (as each such term is defined in FINRA Rule 5121), including the right to receive such securities or subordinated debt within 60 days of such Underwriter's participation in the Offering; (b) in the case of an Issuer or Guarantor which is a partnership, beneficially own a general, limited or special partnership interest in 10% or more of the Issuer's or Guarantor's distributable profits or losses, or a right to receive an interest in such distributable profits or losses within 60 days of such Underwriter's participation in the Offering; or (c) have the power to direct or cause the direction of the management or policies of the Issuer or the Guarantor;

(h) other than as stated in the Invitation Wire, in the case of Registered Offerings and Offerings of Securities exempt under Section 3 of the 1933 Act, neither such Underwriter nor any of its directors, officers, partners, or "persons associated with" such Underwriter (as defined by FINRA) nor, to such Underwriter's knowledge, any "related person" (defined by FINRA to include counsel, financial consultants and advisors, finders, members of the selling or distribution group, any FINRA member participating in the offering, and any other persons associated with or related to and members of the immediate family of any of the foregoing) or any other broker-dealer: (A) within the last six months have purchased in private transactions, or intend before, at, or within six months after the commencement of the public offering of the Securities to purchase in private transactions, any securities of the Issuer, the Guarantor, or any Issuer

Related Party (as hereinafter defined), (B) within the last 6 months have had any dealings with the Issuer, the Guarantor, any Seller, or any subsidiary or controlling person thereof (other than relating to the proposed Underwriting Agreement) as to which documents or information are required to be filed with FINRA, or (C) during the 6 months immediately preceding the filing of the Registration Statement (or, if there is none, the Offering Circular), have entered into any arrangement which provided or provides for the receipt of any item of value (including, but not limited to, cash payments, expense reimbursements and rights of first refusal to participate in a future public offering, private placement or other financing transaction) and/or the transfer of any warrants, options, or other securities from the Issuer, the Guarantor, or any Issuer Related Party to you or any related person;

(i) in the case of Registered Offerings and Offerings of Securities exempt under Section 3 of the 1933 Act, there is no association or affiliation between such Underwriter and; (A) any officer or director of the Issuer, the Guarantor or, any Issuer Related Party, or (B) any securityholder of 5% or more (or, in the case of an initial public offering of equity securities, any securityholder) of any class of securities of the Issuer, the Guarantor, or an Issuer Related Party; it being understood that for purposes of paragraph (i) above and this paragraph (j), the term "Issuer Related Party" includes any Seller, any affiliate of the Issuer, the Guarantor, or a Seller, and the officers or general partners, directors, employees, and securityholders thereof;

(j) in the case of Registered Offerings and Offerings of Securities exempt under Section 3 of the 1933 Act, and if the Securities are not issued by a real estate investment trust, no portion of the net offering proceeds from the sale of the Securities will be paid to such Underwriter or any of its affiliates or "persons associated with" such Underwriter (as defined by FINRA) or members of the immediate family of any such person; and

(k) in the case of Securities which are debt securities whose offer and sale is to be registered under the 1933 Act, such Underwriter is not an affiliate (as defined in Rule 0-2 under the Trust Indenture Act of 1939) of the Trustee for the Securities or of its parent, if any. Neither the Trustee nor its parent, if any, nor any of their directors or executive officers is a "director, officer, partner, employee, appointee, or representative" of such Underwriter (as those terms are defined in the Trust Indenture Act of 1939 or in the relevant instructions to Form T-1). Such Underwriter and its directors, partners, and executive officers, taken as a group, did not on the date specified in the Invitation, and do not, own beneficially 1% or more of the shares of any class of voting securities of the Trustee or of its parent, if any. If such Underwriter is a corporation, it does not have outstanding and has not assumed or guaranteed any securities issued otherwise than in its present corporate name.

If an Underwriter notes an exception with respect to material of the type referred to in clauses (e) and (f), such underwriter will send three copies of each item of such material, together with a statement as to distribution, identifying classes of recipients and the number of copies distributed to each such class, and, if relevant, the number of equity securities or the face value of debt securities owned by such person, the date such securities were acquired, and the price paid for such securities to Morgan Stanley & Co. LLC, Attention: Syndicate Department, 1585 Broadway, New York, New York 10036.

Exhibit (h)(iii)

Morgan Stanley & Co. LLC

MASTER SELECTED DEALERS AGREEMENT

REGISTERED SEC OFFERINGS

AND

EXEMPT OFFERINGS

(OTHER THAN OFFERINGS OF MUNICIPAL SECURITIES)

June 1, 2011

This Master Selected Dealers Agreement (this **"Master SDA"**), dated as of June 1, 2011, is by and between Morgan Stanley & Co. LLC (including its successors and assigns) (**"we," "our," "us"** or the **"Manager"**) and the party named on the signature page hereof (a **"Dealer," "you"** or **"your"**). From time to time, in connection with an offering and sale (an **"Offering"**) of securities (the **"Securities"**), managed solely by us or with one or more other managers or co-managers, we or one or more of our affiliates may offer you (and others) the opportunity to purchase as principal a portion of such securities on the terms set forth herein as a Selected Dealer (as defined below).

References herein to laws, statutory and regulatory sections, rules, regulations, forms and interpretive materials are deemed to include successor provisions. The following provisions of this Master SDA shall apply separately to each individual Offering of Securities. You and we further agree as follows:

1. Applicability of this Master SDA. The terms and conditions of this Master SDA will be applicable to any Offering in which you accept an offer to participate as a Selected Dealer (including through the receipt by you of Securities), whether pursuant to a registration statement filed under the Securities Act of 1933, as amended (the **"1933 Act"**), or exempt from registration thereunder, in respect of which we (acting for our own account or for the account of any underwriting or similar group or syndicate) are responsible for managing or otherwise implementing the sale of Securities to Selected Dealers. A Dealer is a person who meets the requirements of Section 10 hereof. The parties who agree to participate (including by the receipt by such parties of Securities) or are designated a selling concession to Dealers (the **"Selling Concession"**), and reallowance, if any (the **"Reallowance"**), in such Offering as selected Dealers are hereinafter referred to as **"Selected Dealers"**. In the case of any Offering where we are acting for the account of the several underwriters, initial purchasers or others acting in a similar capacity (the **"Underwriters"**), the terms and conditions of this Master SDA will be for the benefit of such Underwriters, including, in the case of any Offering where we are acting with others as representatives of Underwriters, such other representatives.

2. Terms of the Offering. We may advise you orally or by one or more wires, telexes, telecopy or electronic data transmissions, or other written communications (each, a **"Wire"**) of the particular method and supplementary terms and conditions of any Offering (including the price or prices at which the Securities initially will be offered by the several Underwriters, or if the price is to be determined by a formula based on market price, the terms of the formula, (the **"Offering Price"**) and any Selling Concession or, if applicable, Reallowance) in which you are invited to participate. Any such Wire may also amend or modify such provisions of this Master SDA in respect of the Offering to which such Wire relates, and may contain such supplementary provisions as may be specified in any Wire relating to an Offering. To the extent such supplementary terms and conditions are inconsistent with any provision herein, such supplementary terms and conditions shall supersede any provision of this Master SDA. Unless otherwise indicated in any such Wire, acceptances and other communications by you with respect to an Offering should be sent pursuant to the terms of Section 19 hereof. Notwithstanding that we may not have sent you a Wire or other form of invitation to participate in such Offering or that you may not otherwise have responded by wire or other written

communication (any such communication being deemed **"In Writing"**) to any such Wire or other form of invitation, you will be deemed to have accepted the terms of our offer to participate as a Selected Dealer and of this Master SDA (as amended, modified or supplemented by any Wire) by your purchase of Securities or otherwise receiving and retaining an economic benefit for participating in the Offering as a Selected Dealer. We reserve the right to reject any acceptance in whole or in part.

Any Offering will be subject to delivery of the Securities and their acceptance by us and any other Underwriters may be subject to the approval of all legal matters by counsel and may be subject to the satisfaction of other conditions. Any application for additional Securities will be subject to rejection in whole or in part.

3. Offering Documents. Upon your request, we will furnish, make available to you or make arrangements for you to obtain copies (which may, to the extent permitted by law, be in electronic form) of each prospectus, prospectus supplement, offering memorandum, offering circular or similar offering document, and any preliminary version thereof, as soon as reasonably practicable after sufficient quantities thereof have been made available by the issuer of the Securities (each, an **"Issuer"**) and any guarantor (each, a **"Guarantor"**) thereof, and, if different from the Issuer, the seller or sellers (each, a **"Seller"**) of the Securities. You agree that you will comply with the applicable United States federal and state laws, and the applicable rules and regulations of any regulatory body promulgated thereunder, and the applicable laws, rules and regulations of any non-United States jurisdiction, governing the use and distribution of offering materials by brokers and dealers. You represent and warrant that you are familiar with Rule l5c2-8 under the Securities Exchange Act of 1934, as amended (the **"1934 Act"**), relating to the distribution of preliminary and final prospectuses and agree that your purchase of Securities shall constitute your confirmation that you have delivered and will deliver all preliminary prospectuses and final prospectuses required for compliance therewith. You agree to make a record of your distribution of each preliminary prospectus and, when furnished with copies of any revised preliminary prospectus or final prospectus, you will, upon our request, promptly forward copies thereof to each person to whom you have theretofore distributed a preliminary prospectus. You agree that, in purchasing Securities, you will rely upon no statement whatsoever, written or oral, other than the statements in the final prospectus, offering memorandum, offering circular or similar offering document delivered to you by us. You are not authorized by the Issuer or other Seller of Securities offered pursuant to a final prospectus, offering memorandum, offering circular or similar offering document or by any Underwriters to give any information or to make any representation not contained therein in connection with the sale of such Securities.

4. Offering of Securities.

(a) In respect of any Offering, we will inform you of any Selling Concession and Reallowance, if any. The Offering of Securities is made subject to the conditions referred to in the prospectus, offering memorandum, or offering circular or similar offering document related to the Offering and to the terms and conditions set forth in any Wire. After the initial Offering has commenced, we may change the Offering Price, the Selling Concession and the Reallowance (if any) to Selected Dealers. If a Reallowance is in effect, a reallowance from the Offering Price

not in excess of such Reallowance may be allowed (i) in the case of Offerings of Securities that are not exempted securities (as defined in Section 3(a)(12) of the 1934 Act), as consideration for services rendered in distribution to Dealers who are actually engaged in the investment banking or securities business and who are either members in good standing of the Financial Industry Regulatory Authority (**"FINRA"**) who agree to abide by the applicable rules of FINRA or non- U.S. banks, brokers, dealers or institutions not eligible for membership in FINRA who represent to you that they will promptly reoffer such Securities at the Offering Price and will abide by the conditions with respect to non-U.S. banks, dealers and institutions set forth in Section 10 hereof, or (ii) in the case of Offerings of Securities that are exempted securities (as defined in Section 3(a)(12) of the 1934 Act), as consideration for services rendered in distribution not only to Dealers identified in the immediately preceding clause but also to Dealers who are domestic banks which are not members of FINRA who represent to you that they will promptly reoffer such Securities at the Offering Price and will abide by the conditions with respect to domestic banks set forth in Section 10 hereof.

(b) No expenses will be charged to Selected Dealers. A single transfer tax upon the sale of the Securities by the respective Underwriters to you will be paid by such Underwriters when such Securities are delivered to you. However, you shall pay any transfer tax on sales of Securities by you and you shall pay your proportionate share of any transfer tax or other tax (other than the single transfer tax described above) in the event that any such tax shall from time to time be assessed against you and other Selected Dealers as a group or otherwise.

5. Payment and Delivery. You will deliver to us, on the date and at the place and time specified by us orally or In Writing, payment in the manner and type of currency specified by us orally or In Writing, payable to the order of Morgan Stanley & Co. LLC (or as we may subsequently inform you), for an amount equal to the Offering Price plus (if not included in the Offering Price) accrued interest, amortization of original issue discount or dividends, if any, specified in the prospectus or offering circular or other similar offering document furnished in connection with the Offering of the Securities. We may, in our sole discretion, retain the applicable Selling Concession in respect of the Securities to be purchased by you for release at a date specified by us. We will make payment to the Issuer or Seller against delivery to us for your account of the Securities to be purchased by you, and we will deliver to you the Securities paid for by you which will have been retained by or released to you for direct sale. If we determine that transactions in the Securities are to be settled through The Depository Trust Company (**"DTC"**) or another clearinghouse facility and payment in the settlement currency is supported by such facility, payment for and delivery of Securities purchased by you will be made through such facility, if you are a participant, or, if you are not a participant, settlement will be made through your ordinary correspondent who is a participant.

6. Over-allotment; Stabilization; Unsold Allotments; Penalty Bids. We may, with respect to any Offering, be authorized to over-allot in arranging sales to Selected Dealers, to purchase and sell Securities for long or short account and to stabilize or maintain the market price of the Securities. You agree that upon our request at any time and from time to time prior to the termination of the provisions of Section 4 hereof with respect to any Offering, you will report to us the amount of Securities purchased by you pursuant to such Offering which then remain unsold by you and will, upon our request at any such time, sell to us for our account or

the account of one or more Underwriters such amount of such unsold Securities as we may designate at the Offering Price less an amount to be determined by us not in excess of the Selling Concession. Prior to the termination of the Manager's authority to cover any short position in connection with the Offering or such other date as the Manager may specify by Wire, if the Manager determines pursuant to the "Initial Public Offering Tracking System" of DTC that the Manager has purchased, or any of your customers have sold, a number or amount of Securities retained by, or released to, you for direct sale or any Securities sold pursuant to Section 4 hereof for which you received a portion of the Selling Concession, or any Securities which may have been issued on transfer or in exchange for such Securities, which Securities were therefore not effectively placed for investment, then you authorize the Manager to charge your account with an amount equal to such portion of the Selling Concession received by you with respect to such Securities at a price equal to the total cost of such purchase, including transfer taxes, accrued interest, dividends, and commissions, if any.

7. Termination.

(a) The terms and conditions set forth in (i) Section 4, (ii) the second sentence of Section 6, (iii) Section 15 and (iv) Section 16 of this Master SDA (collectively, the **"offering provisions"**) will terminate with respect to each Offering pursuant to this Master SDA at the close of business on the later of (a) the date on which the Underwriters pay the Issuer or Seller for the Securities, and (b) 45 calendar days after the applicable Offering date, unless in either such case the effectiveness of such offering provisions is extended or sooner terminated as hereinafter provided. We may terminate such offering provisions other than Section 6 at any time by notice to you to the effect that the offering provisions are terminated and we may terminate the provisions of Section 6 at any time at or subsequent to the termination of the other offering provisions by notice to you to the effect that the penalty bid provisions are terminated. All other provisions of the Master SDA shall remain operative and in full force and effect with respect to such Offering.

(b) This Master SDA may be terminated by either party hereto upon five business days' written notice to the other party; provided, however, that with respect to any particular Offering, if we receive any such notice from you after we have advised you of the amount of Securities allotted to you, this Master SDA shall remain in full force and effect as to such Offering and shall terminate with respect to such Offering and all previous Offerings only in accordance with and to the extent provided in subsection (a) of this Section 7.

8. Amendments. This Master SDA may be amended from time to time by consent of the parties hereto. Your consent will be deemed to have been given to an amendment to this Master SDA, and such amendment will be effective, five business days following written notice to you of such amendment if you do not notify us In Writing prior to the close of business on such fifth business day that you do not consent to such amendment. Notwithstanding the foregoing, you agree that any amendment, supplement or modification of the terms of this Master SDA by Wire or otherwise In Writing will be effective immediately and your consent will be deemed to have been given to any such amendment, supplement or modification by your purchase of Securities or otherwise receiving and retaining an economic benefit for participating in the Offering as a Selected Dealer; provided that such amendment, supplement or modification of the terms of this Master SDA shall only be effective with respect to the related Offering.

9. Relationship Among Underwriters and Selected Dealers. We shall have full authority to take such actions as we deem advisable in all matters pertaining to any Offering under this Master SDA. You are not authorized to act as an agent for us, any Underwriter or the Issuer or other Seller of any Securities in offering Securities to the public or otherwise. Neither we nor any Underwriter will be under any obligation to you except for obligations assumed hereby or in any Wire from us in connection with any Offering, and no obligations on our part as the Manager will be implied hereby or inferred herefrom. Nothing contained in this Master SDA or any Wire shall constitute the Selected Dealers an association or partners with us or any Underwriter or with one another, and the obligations of you and each of the other Selected Dealers or any of the Underwriters are several and not joint. If the Selected Dealers, among themselves, with us or with the Underwriters, should be deemed to constitute a partnership for federal income tax purposes, then you elect to be excluded from the application of Subchapter K, Chapter 1, Subtitle A of the Internal Revenue Code of 1986 and agree not to take any position inconsistent with such election. You authorize the Manager, in its discretion, to execute on your behalf such evidence of such election as may be required by the U.S. Internal Revenue Service. In connection with any Offering, you will be liable for your proportionate share of the amount of any tax, claim, demand or liability that may be asserted against you alone or against one or more Selected Dealers participating in such Offering, or against us or the Underwriters, based upon the claim that the Selected Dealers, or any of them, constitute an association, an unincorporated business or other entity, including, in each case, your proportionate share of the amount of any expense (including attorneys' fees and expenses) incurred in defending against any such tax, claim, demand or liability.

10. FINRA Compliance. You represent and warrant (a) that you are a broker or dealer (as defined by FINRA actually engaged in the investment banking or securities business and that you are either (i) a member in good standing of FINRA or (ii) a non-U.S. bank, broker, dealer or other institution not eligible for membership in FINRA and not registered under the 1934 Act (a **"non-member non-U.S. dealer"**), or (b) only in the case of Offerings of Securities that are exempted securities (as defined in Section 3(a)(12) of the 1934 Act), and such other Securities as from time to time may be sold by a "bank" (as defined in Section 3(a)(6) of the 1934 Act (a **"Bank"**)), that you are a domestic Bank which is not a member of FINRA that makes the representations and agreements applicable to such institutions contained in this Section 10 hereof as if you were a member of FINRA. You agree that, in connection with any purchase or sale of the Securities wherein a selling concession, discount or other allowance is received or granted, you (aa) will comply, if you are a member of FINRA, with all applicable rules of FINRA, including, without limitation, (i) the requirements of FINRA Rule 5130, and (ii) the requirements of NASD Conduct Rule 2740 (relating to Selling Concessions, Discounts and Other Allowances) or any FINRA successor rules thereto or (bb) if you are a non-member non-U.S. dealer, (i) will comply, as though you were a member of FINRA, with the requirements of the following rules (including any FINRA successor rules thereto): NASD Conduct Rules 2730 (relating to Securities Taken in Trade), 2740 (relating to Selling Concessions), 2750 (relating to Transactions with Related Persons) and FINRA Rule 5130 (relating to Restrictions on the Purchase and Sale of Initial Equity Public Offerings) and NASD Conduct Rule 2420 (relating to Dealing with

Non-Members) as that Rule applies to a non-member broker/dealer in a non-U.S. country, and (ii) are, and will remain at all relevant times, an appropriately registered or licensed broker- dealer (to the extent required) in a non-U.S. jurisdiction and will not engage in any activities in the United States or with United States persons as would require you to register as a broker- dealer under Section 15 of the 1934 Act or obtain FINRA membership as set forth in NASD Conduct Rule 2420(c). In addition, if you are a domestic bank or a non-member non-U.S. dealer, you agree to comply, as though you were a member of FINRA, and make the representations and agreements applicable to such institutions contained in this Section 10. You represent and warrant that you are fully familiar with the above provisions.

You further represent, by your participation in an Offering, that you have provided to us all documents and other information required to be filed with respect to you, any related person or any person associated with you or any such related person pursuant to the supplementary requirements of FINRA's interpretation with respect to review of corporate financing as such requirements relate to such Offering.

11. Blue Sky Matters. Upon application to us, we shall inform you as to any advice we have received from counsel concerning the jurisdictions in which Securities have been qualified for sale or are exempt under the securities or "Blue Sky" laws of such jurisdictions, but we do not assume any obligation or responsibility as to your right to sell Securities in any such jurisdiction, notwithstanding any information we may furnish to you in that connection.

12. Governing Law; Submission to Jurisdiction. This Master SDA (as it may be modified or supplemented by any Wire) will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed in the State. You hereby irrevocably: (a) submit to the jurisdiction of any court of the State of New York located in the City of New York or the U.S. District Court for the Southern District of the State of New York for the purpose of any suit, action, or other proceeding arising out of this Master SDA, or any of the agreements or transactions contemplated hereby (each, a **"Proceeding"**), (b) agree that all claims in respect of any Proceeding may be heard and determined in any such court, (c) waive, to the fullest extent permitted by law, any immunity from jurisdiction of any such court or from any legal process therein, (d) agree not to commence any Proceeding other than in such courts, and (e) waive, to the fullest extent permitted by law, any claim that such Proceeding is brought in an inconvenient forum.

13. Successors and Assigns. This Master SDA will be binding on, and inure to the benefit of, the parties hereto and other persons specified in Section 1 hereof, and the respective successors and assigns of each of them; provided, however, that you may not assign your rights or delegate any of your duties under this Master SDA without our prior written consent.

14. Compliance with Law. You agree that in selling Securities pursuant to any Offering (which agreement shall also be for the benefit of the Issuer or other Seller of such Securities) you will comply with all applicable rules and regulations, including the applicable provisions of the 1933 Act and the 1934 Act, the applicable rules and regulations of the Securities and Exchange Commission thereunder, the applicable rules and regulations of FINRA, the applicable rules and regulations of any securities exchange having jurisdiction over the Offering and the applicable laws, rules and regulations specified in Section 3(a) and 3(b) hereof.

15. Discretionary Accounts. In the case of an Offering of Securities registered under the 1933 Act by an Issuer that was not, immediately prior to the filing of the related registration statement, subject to the requirements of Section 13(d) or 15(d) of the 1934 Act, you will not make sales to any account over which you exercise discretionary authority in connection with such sale, except as otherwise permitted by us for such Offering In Writing.

16. Offering Restrictions. You will not make any offers or sales of Securities or any other securities in jurisdictions outside the United States except under circumstances that will result in compliance with (a) applicable laws, including private placement requirements, in each such jurisdiction and (b) the restrictions on offers or sales set forth in this Master SDA, any Wire or the prospectus, preliminary prospectus, offering memorandum, offering circular, or preliminary offering memorandum or preliminary offering circular or other similar offering document, as the case may be. It is understood that, except as specified in this Master SDA, the prospectus, offering memorandum or offering circular or other similar offering document, or applicable Wire, no action has been taken by us, the Issuer, the Guarantor, the Seller or any other party to permit you to offer Securities in any jurisdiction other than the United States, in the case of a Registered Offering, where action would be required for such purpose.

17. Prohibition on Money Laundering. The operations of your business and your subsidiaries are and, to your knowledge, have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the **"Money Laundering Laws"**) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving you or any of your subsidiaries with respect to the Money Laundering Laws is pending or, to your knowledge, threatened.

18. Liability of Manager. The Manager will not be liable to you for any act or omission, except for obligations expressly assumed by the Manager In Writing.

19. Notices. Any notice to you will be deemed to have been duly given if mailed, sent by Wire, or delivered in person to you at the address set forth on the signature page hereto (or to such other address, telephone, telecopy or telex as you will be notified by us), or if such address is no longer valid, then at the address set forth in reports filed by you with FINRA. Any such notice will take effect upon receipt thereof. Communications by Wire will be deemed to be "written" communications and made In Writing.

20. Severability. In case any provision in this Master SDA or any Wire is deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

21. Counterparts. This Master SDA may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which taken together constitute one and the same instrument. Transmission by telecopy of an executed counterpart of this Master SDA will constitute due and sufficient delivery of such counterpart.

Please confirm by signing and returning to us the enclosed copy of this Master SDA that your subscription to, or your acceptance of any reservation of, any Securities pursuant to an Offering shall constitute (a) acceptance of and agreement to the terms and conditions of this Master SDA (as supplemented and amended pursuant to Section 8 hereof) together with and subject to any supplementary terms and conditions contained in any Wire from us in connection with such Offering, all of which shall constitute a binding agreement between you and us individually or as representative of any Underwriters, (b) confirmation that your representations and warranties set forth herein are true and correct at that time, (c) confirmation that your agreements herein have been and will be fully performed by you to the extent and at the times required thereby and (d) in the case of any Offering described in Section 3 hereof, acknowledgment that you have requested and received from us sufficient copies of the final prospectus, offering memorandum or offering circular, as the case may be, with respect to such Offering in order to comply with your undertakings in Section 3(a) or 3(b) hereof.

(*Remainder of page intentionally left blank*)

(*Signature page follows*)

This Master SDA is dated as of June 1, 2011, and executed by and between Morgan Stanley & Co. LLC and other party named below.

Very truly yours,

MORGAN STANLEY & CO. LLC

By: /s/ Evan Damast
Name: Evan Damast
Title: Managing Director

Confirmed as of (date):
CONFIRMED: , 20

(Legal Name of Selected Dealer)

By:
Name:
Title:

Address:

Telephone:

Facsimile:

Email:

Master Selected Dealers Agreement

GUIDE TO DEFINED TERMS

Term	Section Reference
1933 Act	1
1934 Act	3
Bank	10
Dealer	Foreward
DTC	5
FINRA	4(a)
Guarantor	3
In Writing	2
Issuer	3
Manager	Foreword
Master SDA	Foreword
Money Laundering Laws	17
non-member non-U.S. dealer	10
Offering	Foreword
Offering Price	2
offering provisions	7(a)
Proceeding	12
Reallowance	1
Securities	1
Selected Dealers	1
Seller	3
Selling Concession	1
Underwriters	1
Wire	2

Exhibit (k)(ii)

ADDENDUM TO
REGISTRAR, TRANSFER AGENCY AND SERVICE AGREEMENT

This Addendum (this "**Addendum**"), is made as of September 14, 2017, by and between Ellsworth Growth and Income Fund Ltd., a Delaware statutory trust (the "**Company**") and American Stock Transfer & Trust Company, LLC, a New York limited liability trust company ("**AST**").

WHEREAS, the parties entered into that certain Transfer Agency and Registrar Services Agreement (the "**Agreement**"), dated as of January 3, 2002; and

WHEREAS, the parties now desire to supplement the Agreement as more fully described herein.

NOW THEREFORE, for good and valuable consideration, and intending to be legally bound, the parties hereby execute this Addendum in order to supplement the Agreement as follows:

1. Definitions. Except as set forth herein, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event of conflicting or additional terms between the terms of the Agreement and this Addendum, the terms of this Addendum shall prevail over those in the Agreement with respect to the subject matter hereof. Any capitalized term used in this Amendment shall have the same meaning as in the Agreement unless the context herein specifically states otherwise.

2. Additional Classes of Securities. The Company hereby appoints AST to act as sole transfer agent and registrar for 5.25% Series A Cumulative Preferred Shares issued by the Company and AST hereby accepts such appointment.

AMERICAN STOCK TRANSFER
& TRUST COMPANY, LLC

By: /s/ Michael Legregin
Name: Michael Legregin
Title: Senior Vice President

ELLSWORTH GROWTH AND INCOME
FUND LTD.

By: /s/ Andrea R. Mango
Name: Andrea R. Mango
Title: Secretary and Vice President

Exhibit (l)(ii)

September 14, 2017

Ellsworth Growth and Income Fund Ltd.
One Corporate Center
Rye, New York 10580-1422

Re: Ellsworth Growth and Income Fund Ltd.
Preferred Shares Shelf Takedown

Ladies and Gentlemen:

We have acted as special counsel to Ellsworth Growth and Income Fund Ltd., a statutory trust (the "Trust") created under the Delaware Statutory Trust Act (the "DSTA"), in connection with the issuance and sale by the Trust of up to 1,200,000 shares (the "Shares") of the Trust's 5.25% Series A Cumulative Preferred Shares, par value $0.01 per share, with a liquidation preference of $25.00 per share (the "Series A Preferred Shares"), pursuant to the Underwriting Agreement, dated September 13, 2017, among Morgan Stanley & Co. LLC, as representative of the underwriters listed therein, the Trust and Gabelli Funds, LLC, a New York limited liability company (the "Underwriting Agreement").

This opinion is being furnished in accordance with the requirements of sub-paragraph (l) of item 25.2 of part C of Form N-2 under the Securities Act of 1933, as amended (the "Securities Act"), and the Investment Company Act of 1940, as amended (the "1940 Act").

In rendering the opinions stated herein, we have examined and relied upon the following:

(i) the registration statement on Form N-2 (File Nos. 333-219322 and 811-04656) of the Trust, filed with the Commission on July 17, 2017 under the Securities Act and the 1940 Act, allowing for delayed offerings pursuant to Rule 415 of the General Rules and Regulations under the Securities Act (the "Securities Act Rules and Regulations"), as amended by Pre-Effective Amendment No. 1 on August 22, 2017 and as proposed to be amended by Post-Effective Amendment No. 1 on the date hereof, including information deemed to be a part of the registration statement pursuant to Rule 430B of the Securities Act Rules and Regulations (such registration statement, as so amended and proposed to be amended, being hereinafter referred to as the "Registration Statement");

(ii) the prospectus and Statement of Additional Information of the Trust, each dated August 31, 2017, in the form filed with the Commission on September 13, 2017 pursuant to Rule 497 of the Securities Act Rules and Regulations;

(iii) the prospectus supplement of the Trust, dated September 13, 2017, relating to the offering of the Shares, in the form filed with the Commission on 14, 2017 pursuant to Rule 497 of the Securities Act Rules and Regulations;

(iv) an executed copy of a certificate of Andrea R. Mango, Secretary of the Trust, dated the date hereof (the "Secretary's Certificate");

(v) a copy of the Trust's Amended and Restated Certificate of Trust dated January 16, 2006 as amended by the Amendment to the Amended and Restated Certificate of Trust dated January 20, 2015 (collectively, the "Certificate of Trust"), as certified by the Secretary of State of the State of Delaware as of September 5, 2017 and certified pursuant to the Secretary's Certificate;

(vi) a copy of the Trust's Amended and Restated Agreement and Declaration of Trust, by the trustees of the Trust, dated as of January 16, 2006, as amended on January 20, 2015 and September 9, 2015 (as so amended and supplemented, the "Declaration of Trust"), certified pursuant to the Secretary's Certificate;

(vii) a copy of the Trust's Amended and Restated By-Laws, as amended and in effect as of the date hereof (the "By-Laws"), certified pursuant to the Secretary's Certificate;

(viii) the Statement of Preferences for the Series A Preferred Shares, dated September 13, 2017, certified pursuant to the Secretary's Certificate;

(ix) copies of certain resolutions relating to the issuance, sale and registration of the Shares and related matters, adopted (i) by the Board of Trustees of the Trust (the "Board of Trustees") on February 23, 2017 and August 24, 2017 and (ii) by the Pricing Committee of the Board of Trustees on September 13, each certified pursuant to the Secretary's Certificate (collectively, the "Board Resolutions");

(x) a copy of a certificate, dated the date hereof, from the Secretary of State of the State of Delaware with respect to the Trust's existence and good standing in the State of Delaware; and

(xi) an executed copy of the Underwriting Agreement.

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Trust and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Trust and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinions stated below.

In our examination, we have assumed the genuineness of all signatures, including endorsements, the legal capacity and competency of all natural persons, the authenticity of all

documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. As to any facts relevant to the opinions stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Trust and others and of public officials, including the facts and conclusions set forth in the Secretary's Certificate and the factual representations and warranties contained in the Underwriting Agreement.

We do not express any opinion as to any laws other than the DSTA.

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that the Shares have been duly authorized by all requisite statutory trust action on the part of the Trust under the DSTA and, when the issuance of the Shares has been duly registered in the share record books of the Trust and the Shares are delivered to and paid for by the underwriters in accordance with the Underwriting Agreement and Board Resolutions, the Shares will be validly issued, fully paid and nonassessable.

We hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. We also hereby consent to the reference to our firm under the headings "Legal Matters" in the prospectus forming part of the Registration Statement. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Securities Act Rules and Regulations. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

T.A.D.